

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
APPENDIX**

75-7004

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

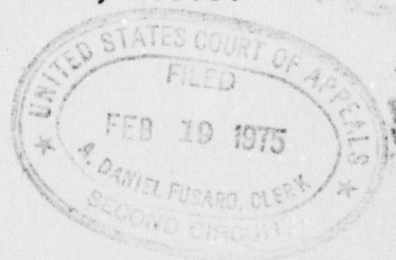
No. 75-7004

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x-----x
: ARCHIE PELTZMAN, :
: PLAINTIFF, APPELLANT :
:
: -against- :
:
: CENTRAL GULF S.S. CO. :
: DEFENDANT, APPELLE :
x-----x

APPELLANT'S APPENDIX

ARCHIE PELTZMAN, PRO SE
8725 16th Avenue
B'klyn, 11214, N.Y.C.
256-4658



PAGINATION AS IN ORIGINAL COPY

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• Partial Transcript

** Supplemental Transcript

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JUDGE KNAPP

JUDGE KNAPP

73 CT. 291

W.F. FLETCHER, VS. CENTRAL GULF STEAMSHIP CO.

DATE	PROCEEDINGS	Date of Judgment
Jan. 12-73	Filed Complaint. Issued Summons.	
Jan. 20-73	Filed summons with marshals return: Served; Central Gulf S.S. Co. on 7-20-73.	
Jan. 25-73	Filed plttf's amendments to complaint.	LFG&
Jan. 29-73	Filed verified ANSWER to complaint.	
Jan. 16-73	Filed plttf's notice of motion to strike answer of deft. (Memorandum of law included.)	
Jan. 16-73	Filed Amended complaint.	
Jan. 20-73	Filed deft Central Gulf Lines, Inc's ANSWER to the amended complaint.	
Jan. 12-73	Filed affidavit by J.A. Flynn in opposition to motion to strike.	
Jan. 19-73	Filed reply affidavit & pleading RE: N.L.R.B. motion to quash.	
Jan. 24-73	Subpoena.	
Jan. 24-73	Filed plttf's affidavit & notice of motion to permit inspection & copying of papers ret. 10-12-73.	
Jan. 10-73	Filed affidavit of J.A. Flynn in opposition to plttf's motion.	
Jan. 20-73	Filed plttf's Pro-Se affidavit & notice of motion to compel discovery.	
Jan. 12-11-73.		
Jan. 27-73	Filed deft's affidavit & notice of motion for summary judgment ret. 1-25-74.	
Jan. 27-73	Filed deft's statement pursuant to rule 9(g).	
Jan. 18-73	Filed affidavit of service by Richard P. Lerner.	
Jan. 18-73	Filed deft's memorandum in support of motion for summary judgment.	
Jan. 18-73	Filed plttf's Pro Se cross-motion for partial summary judgment.	
Jan. 18-73	Filed plttf's Pleading in opposition to motion for summary judgment (Memorandum of law included.)	
Jan. 11-74	FILED OPINION #40206: Deft. moves for summary judgment. In view of court's disposition of this motion, it is not necessary to rule on plttf's prior motions for discovery or on the motion by the NLRB to quash a subpoena. All now are moot. The complaint, is accordingly dismissed. So ordered. Knapp, J. m/n	
Jan. 15-74	Filed Judgment: Ordered that deft. Central Gulf (Sued as Central Gulf Steamship Co.) have judgment against the plttf. dismissing the complaint. Judgment Ent. Clerk. m/n Ent. 1-15-74.	
Jan. 23-74	Filed plttf's notice of appeal to the USCA from final judgment ent. 1-15-74 by Judge Knapp. Mailed copy to Lorenz, Finn, Giardino & Lambos.	
Jan. 31, 74	Filed Letter from Lorenz, Finn, Giardino & Lambos to Judge Knapp, dated Dec 4, 73.	
Jan. 31, 74	Filed Letter from Lorenz, Finn, Giardino & Lambos dated Dec 6, 73 to Judge Knapp.	
Jan. 31, 74	Filed Letter from National Labor Relations Bd to Judge Knapp, dated 9-12-73, with Motion to Quash Subpoena to Testify and produce documents.	
Feb. 4-74	Filed notice that record on appeal has been certified & transmitted to the U.S.C.A. this date.	
Jul. 22/74	Filed true copy of order and judgment of the U.S.C.A. that the judgment of the district court is reversed and that the action is remanded to the said district court for further proceedings in accordance with the opinion of this court with costs to be taxed against the appellee. Clerk docketed as judgment # 74 607.	
Aug. 30-74	Filed Plttf's Affidavit & Notice of Motion for hearing after issuance of mandate by Court of Appeals ret. 9/13/74.	
Sep. 9-74	Filed deft's (Central Gulf Lines) affidavits & notice of motion for summary judgment ret. 10-4-74.	
Sep. 9-74	Filed statement pursuant to rule 9(g).	
Sep. 9-74	Filed affidavit of service by L.D. Orazon of motion on 9-9-74.	

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JUDGE KNAPP

1 Archie Peltzman

vs. Central Gulf SS.Co.

73 Civ 291

Rev. Civil Docket Continuation

Page #2

PROCEEDINGS

- | Date | Description | By |
|-----------|--|--------------|
| 1-1-74 | Filed plttf's notice of cross-motion for partial summary judgment, ret. before Knapp, J. (Affidavit in support enclosed.) | |
| E.25-74 | Filed affidavit of B.L. Smith in support of deft's motion for summary judgment. | |
| Nov.12-74 | Filed supplemental affidavit by Archie Peltzman in opposition to summary judgment. | |
| 12-13-74 | Filed manuscript of record of proceedings, dated 5/30/74 | |
| 12-19-74 | Filed plttf's notice of entry of true copy of order from the USCA. | |
| 12-26-74 | Filed affidavit of service by L.D'Orazion of mailing affidavits. | |
| 12-26-74 | Filed reply affidavit of R.P.Lerner to plttf's supplemental affidavit. | |
| 12-26-74 | Filed affidavit of E.A.Steinberg in reply to plttf's supplemental affidavit. | |
| 12-9-74 | Issued opinion on judgment # 74,607, in the amt. of \$ 215.88. | |
| Dec.10-74 | Filed OPINION #41549: The plttf. has made a cross-motion for summary judgment which must necessarily be denied. Deft. is entitled to a judgment as a matter of law, pursuant to rule 56. So ordered. Knapp, J. m/n | |
| 12-13-74 | Filed JUDGMENT: Ordered that deft. have judgment against plttf dismissing the complaint. Judgment Ent. Clerk. m/n | |
| 12-19-74 | Filed plttf's notice of appeal from final judgment entered. 12-13-74. mailed copy to Lorenz, Finn, Giardino & Lambos. | Ent.12-16-74 |

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
ARCHIE PELTZMAN, :

Plaintiff, :

- against - :

CENTRAL GULF LINES, INC., :

Defendant. :

OPINION

73 Civ. 2911

-----x
A P P E A R A N C E S :

ARCHIE PELTZMAN
Plaintiff Pro Se
8725 16th Avenue
Brooklyn, New York 11214

LORENZ, FINN, GIARDINO & LAMBOS
Attorneys for Defendant
25 Broadway
New York, New York 10004
By: RICHARD P. LERNER, ESQ.,
Of Counsel

KNAPP, D.J.

This is an action by a licensed radio operator for wrongful discharge. The plaintiff had entered into a contract of employment with the defendant, and claims that the defendant breached that contract by unlawfully discharging him. It is not disputed that the defendant operated under a collective bargaining agreement with the American Radio Association, AFL-CIO or that that agreement required that all permanent radio operators be members of the union or join the union within thirty days of the acceptance of permanent employment. Furthermore, there is no doubt that the union formally advised the defendant that the plaintiff, who had been permanently employed for more than thirty days, was not a member of the union, and that the defendant discharged the plaintiff pursuant to that representation. The only question presented is whether the union had the lawful right to make that representation or whether, such representation being a nullity, the defendant could not lawfully discharge the plaintiff pursuant thereto.

The background to the dispute between the plaintiff and the union can be simply stated: Plaintiff had been an active member of the union in good standing until 1949. In that year, the Coast Guard - unlawfully as it later turned out - refused to issue him a radio officer's license. Without a license, plaintiff was prevented

from following his calling at sea. Plaintiff, accordingly, ceased paying his union dues, and in 1950 was, in accordance with the ARA Constitution, suspended for non-payment of such dues.

In 1967, plaintiff belatedly received his license from the Coast Guard and reported back to his union. The union immediately made temporary jobs available but told him that, having been suspended (and later expelled pursuant to appropriate amendments of the Constitution) for non-payment of dues, he would have to pay the current initiation fee - then \$2,000 - before he could be considered a member in good standing, and thus be considered for permanent employment aboard vessels subject to union contract.

The plaintiff took the position that the union - for a wide variety of reasons - had no right to require the payment of initiation fees from him or from any other radio officer similarly situated. He unsuccessfully urged this position before the union, the National Labor Relations Board, and the New York State courts.

Based on the foregoing undisputed facts, the defendant moved before me for summary judgment claiming that its contract with the plaintiff incorporated the terms of the collective bargaining agreement, and that, accordingly, since the plaintiff was not a union member in good standing, he could not keep a permanent position on any ship operated by defendant.

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In argument before me the plaintiff took two basic positions:

- (1) that the "security clause" pursuant to which the union acted (which required him to be a member in good standing in order to hold a permanent job) was in violation of the Taft-Hartley and Landrum-Griffin Acts; and
- (2) that regardless of the validity of the security clause, the union in the circumstances presented had no right to require the payment of an initiation fee.

I reviewed both of these contentions and granted the defendant's motion for summary judgment.^{1/} The Court of Appeals agreed with my determination on both the above stated questions but, reading the plaintiff's complaint - to allege that he was a member of the union at the time of discharge, held that plaintiff's claim was susceptible of being supported by proof that the union had treated him in a discriminatory fashion - i.e. by demanding initiation fees from him and not from others similarly situated. Although no discriminatory conduct had theretofore been suggested by plaintiff, the Court of Appeals remanded the case to explore the possibility of the existence of an issue of fact on that theory.

1/

I also committed the superfluous error of misreading Motor Coach Employees v. Lockridge (1971) 403 U.S. 274, 91 S. Ct. 1909, 29 L.Ed. 2d 473, and ruling that the National Labor Relations Board had exclusive jurisdiction in the matter; and that in any event plaintiff was precluded as a result of his prior litigation against the union in the New York courts.

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For the reasons which follow, I have concluded that no
can be found and reinstate my original order granting the
s motion for summary judgment.pursuant to Rule 56, Federal
Civil Procedure.

At a "pre-trial" conference following the remand, the
Central Gulf Lines asserted that it wished to renew its
summary judgment upon affidavits conclusively establishing
union had not treated the plaintiff in any discriminatory
I accordingly established a procedure whereby the defendant
a specified period of time within which to make such an
tion, and that the plaintiff should advise my chambers when
dy to reply. I indicated that, since plaintiff was acting
e reply need not be formal or even in writing, but that -
as ready for it - I would conduct a hearing at which he could
y evidence and examine any witnesses he thought appropriate.
ecified that such a hearing would not be for the purpose of
ng any issue of fact but merely for the purpose of smoking
istence of such an issue.

After adjournments for a variety of reasons, the hearing
before me on October 15 and 18, respectively. The proceedings
arly six hours and plaintiff was afforded the opportunity both
l after the hearing to examine any available relevant documents.

irrelevant testimony was adduced, but so far as relevant, it established that the union consistently enforced its requirement for the payment of initiation fees upon all members who had been suspended and (pursuant to later amendments of the Constitution) expelled for non-payment of dues. The only exception^{2/} involved a radio officer by the name of Ed Homer who - in circumstances somewhat similar to the plaintiff's, was required only to pay \$1,000. The Homer situation will therefore be examined in detail.

Homer, like the plaintiff, was a victim of the Coast Guard's improper action in refusing to issue him a license, and was therefore also barred from following his calling at sea. However, unlike the plaintiff, he was not suspended from the union. He followed the appropriate procedures (which included the payment of dues) and received a withdrawal card thereby leaving the union as a member in good standing. However when Homer sought reinstatement after the Coast Guard finally issued his license, this circumstance proved to be of no avail. The union took the position that, under its constitution, full initiation fees now had to be paid by members who

In his post-trial memorandum, plaintiff discusses the case of a Mr. Spoonmore, a radio officer who was suspended in the 1940's for non-payment of dues and reinstated in 1951 after paying a fee of only \$180. The case, however, is not analogous to that of plaintiff's since the union constitution was amended only after 1951 to require the payment of a new initiation fee for expelled members seeking re-admission to the union.

had not kept up their dues, whether they had withdrawn in good standing or been expelled. Like the plaintiff, Homer resisted this position.^{3/} After negotiations between Homer's attorneys and attorneys for the union, the parties agreed that the cost of litigation would be far in excess of the amount in question, and decided that it was best to settle upon an initiation fee of \$1,000 for Mr. Homer instead of the \$2,000 demanded.

In the first place, it seems clear that Homer was in a stronger litigating position vis-a-vis the union than was the plaintiff. Regardless of the technicalities involved, a former union member who - when he was improperly ousted from his job - took the trouble to comply with the union's regulations and to withdraw in good standing could expect a more sympathetic judicial hearing than one who had simply permitted himself to be expelled.^{4/} Be that as it may, I can't believe that the circumstance that the union settled a dispute with one member rather than engage in protracted litigation would brand as "discriminatory" any attempt by the union to enforce its regulations against the rest of its members. This consideration becomes the more compelling in light of the conceded fact that this plaintiff never made any attempt to settle his dispute with the union. On the

^{3/}

At the time Homer withdrew from the union, the union constitution did not require members in good standing to pay an initiation fee upon reinstatement.

^{4/}

Plaintiff himself clearly recognized this distinction at the hearing. In fact, he seemed much more outraged at Ed Homer's treatment than at his own.

contrary he insisted on forcing the union to engage in the very litigation its settlement with Homer was designed to avoid.

The plaintiff has made a cross-motion for summary judgment which must necessarily be denied. However, it is worth noting that even if the plaintiff had prevailed in his cross-motion for summary judgment, he probably would have been unable to recover against the defendant because of an inability to show any damages. The principal witness called at the hearing was Bernard L. Smith, Secretary-Treasurer of the union. In a colloquy between the Court, the witness and the plaintiff, it was developed - and admitted by the plaintiff - that the union security clause was applicable only to permanent jobs and that the union made no effort to prevent any licensed radio operator - including the plaintiff - from getting temporary employment with its contractees. Mr. Smith pointed out that - as illustrated by plaintiff's own experience - the union maintained a hiring hall and actively assisted non-members in getting temporary jobs. While this distinction between permanent and temporary employment might, in ordinary circumstances, have considerable economic significance, it had no such significance in the year 1971 when this particular breach of contract was alleged to have occurred. The Vietnam War was then at its height, and according to Mr. Smith, any radio operator "who had a license and whose heart was beating"

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Mr. Smith's definition of the requirements for employment during the Vietnam War.

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could, if he wished, have held temporary jobs on union ships for 365 days a year. In the same colloquy, the plaintiff conceded that the only injury which resulted from the union's position was his inability to vote at union meetings and hold office in the union - injuries for which he could clearly not hold the defendant Central Gulf responsible.

To sum up, the record conclusively establishes that the plaintiff at the time of discharge was not a member of the ARA because he failed and refused to pay an initiation fee that was uniformly required by the union constitution and regularly demanded of those in his position. Furthermore, the record shows that plaintiff was discharged pursuant to the ARA's valid union security clause.

Accordingly, I find that defendant has shown with regard to plaintiff's contract claim that there are no genuine issues as to any material fact, and that the defendant is entitled to a judgment as a matter of law, pursuant to Rule 56, Federal Rules of Civil Procedure.

SO ORDERED.

Dated: New York, New York

December 5, 1974.

WHITMAN KNAPP

WHITMAN KNAPP, U.S.D.J.

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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

No. 942—September Term, 1973.

(Argued May 1, 1974

Decided May 21, 1974.)

Docket No. 74-1162

ARCHIE PELTZMAN,

Plaintiff-Appellant,

v.

CENTRAL GULF LINES, INC.,

Defendant-Appellee.

Before:

WATERMAN, FRIENDLY and MULLIGAN,

Circuit Judges.

Appeal from a judgment of the District Court for the Southern District of New York, Whitman Knapp, *Judge*, granting defendant steamship company's motion for summary judgment in an action brought by a marine radio officer seeking damages and injunctive relief for the company's refusal to rehire him.

Reversed and remanded.

ARCHIE PELTZMAN, New York, N.Y., *Plaintiff-Appellant, Pro Se.*

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RICHARD P. LERNER, Esq., New York, N.Y.
(James A. Flynn, Esq., and Lorenz, Finn,
Giardino & Lambos, New York, N.Y., of
Counsel), for Defendant-Appellee.

PER CURIAM:

Archie Peltzman, a marine radio officer, brought this action in the District Court for the Southern District of New York, seeking damages and injunctive relief against his former employer, Central Gulf Lines, Inc. Appearing pro se, Peltzman raised a myriad of claims before the district court based on maritime law, the New York and federal constitutions, the antitrust laws, and the collective bargaining agreement between the employer and Peltzman's union, the American Radio Association. In essence, his claim was that the employer unlawfully acceded to a union request that he be discharged for failing to pay a \$2,000 union initiation fee.

I.

The facts, as appellant presents them, are as follows: From 1943 through 1949, Peltzman was a member of the American Communications Association, the predecessor of the American Radio Association. In 1949 the Coast Guard refused to issue him a radio officer's license on the ground that he was either a member of the Communist Party or a communist sympathizer. Without a license, Peltzman was ineligible to serve as a radio officer in the Merchant Marine. In 1967, he brought an action in federal court in the course of which the Coast Guard agreed to reissue him a license, see *Peltzman v. Smith*, 404 F.2d 335 (2 Cir. 1968). He subsequently sought reinstatement in the union as a full-fledged member. At that time, the union issued him a permit card which entitled him to sail for a year

without having to pay the union's \$2,000 initiation fee. At the end of the year, however, the union demanded that Peltzman pay the fee. Peltzman refused, insisting that since he was a former member of the union, he should be liable only for a "withdrawal fee," equal to one year's dues. Others who had rejoined the union after a long layoff, Peltzman insisted, had ^{not} been required to pay the full initiation fee.

Before the dispute was settled, Peltzman received a permanent assignment on the S/S Green Ridge, one of Central Gulf's vessels. He made three trips on the Green Ridge and then requested a one-trip vacation leave, as provided for in the collective bargaining agreement. At that time, the union demanded the \$2,000 initiation fee and the employer indicated that he would not be rehired without obtaining clearance from the union. Peltzman then began a series of legal actions in an effort to save his job. He first took his claim to the National Labor Relations Board. When the Regional Director declined to file a complaint with the Board and the General Counsel affirmed the Regional Director's decision, Peltzman appealed to this court. We dismissed the appeal from the bench, and the Supreme Court denied certiorari. *Peltzman v. NLRB*, No. 72-1091 (2 Cir.), *cert. denied*, 409 U.S. 887 (1972).¹ While his claim was pending before the General Counsel, Peltzman brought suit against the union in the New York courts. The trial court declined jurisdiction over the matter, holding that it was within the exclusive jurisdiction of the Board, and the appellate division affirmed without opinion. *Peltzman v. American Radio*

¹ Our summary dismissal of Peltzman's appeal was doubtless based on the well-settled principle that the General Counsel's determination not to issue a complaint on an unfair labor practice charge is unreviewable, see *Vaca v. Sipes*, 386 U.S. 171, 182 (1967); *United Electrical Contractors Ass'n v. Ordman*, 366 F.2d 776 (2 Cir. 1966), *cert. denied*, 385 U.S. 1026 (1967).

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Association, 69 Misc.2d 17, 327 N.Y.S.2d 505 (S.Ct. N.Y. Co.), *aff'd*, 335 N.Y.S.2d 998 (1st Dep't 1971), *cert. denied*, 411 U.S. 910 (1973).

Failing to obtain relief in those two forums, Peltzman next brought his case to the federal court. In the court below, however, he fared no better than in his previous efforts. On defendant's motion, the district court granted summary judgment against Peltzman on at least three independent grounds. First, the court held that since his complaint was founded on conduct that would arguably constitute an unfair labor practice, Peltzman's claims were subject to the exclusive jurisdiction of the National Labor Relations Board. Second, it held that the judgment against him in the New York courts operated as a jurisdictional bar to his maintaining the action in federal court. The court next suggested that since the General Counsel had refused to issue a complaint on Peltzman's application, he would probably be barred from bringing this action in court.² On the merits, the court concluded without discussion that "defendant's refusal to rehire plaintiff was lawful under the circumstances." The court did not reach the further defense that Peltzman had failed to exhaust contractual grievance procedures and that such failure should bar his present action. On that point, the court held that the exhaustion defense raised material disputed issues of fact. We reverse the judgment of the district court and remand for a determination whether the collective bargaining agreement provides Peltzman any basis for relief.

² The district court expressed some doubt that the General Counsel's refusal to issue a complaint would provide an independent basis for granting summary judgment, but held that since the action was subject to the Board's exclusive jurisdiction, it did not have to decide the effect of the General Counsel's decision.

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II.

Most of Peltzman's arguments can be dealt with summarily. Nothing in maritime law renders illegal a discharge that is authorized under a legitimate union security clause. There is no colorable basis for an antitrust claim in this case. The security clause here is not subject to attack under the federal or New York constitutions, see *NLRB v. General Motors Corp.*, 373 U.S. 734 (1963); *Buckley v. AFTRA*, — F.2d — (2 Cir. 1974), slip opinions at 3073; *Linscott v. Millers Falls Co.*, 440 F.2d 14 (1 Cir.), *cert. denied*, 404 U.S. 872 (1971). And any claim that the company has committed an unfair labor practice in discharging him would plainly be subject to the exclusive jurisdiction of the NLRB.

Peltzman's breach of contract claim, however, is not so easily dismissed. While his pleading is not as concise as could be hoped, his breach of contract claim is founded on his assertion that he *was* a member of the union when he was discharged, and that the union was thus not entitled to demand an initiation fee from him—a demand which he alleges was not made of others in his position, see *Cunningham v. Erie R.R.*, 358 F.2d 640, 643-45 (2 Cir. 1966). If his allegations are correct, the union security clause in the collective bargaining agreement would not authorize his discharge, and other provisions, such as the non-discrimination clause, would arguably provide him a contractual basis for regaining his job.

It is well settled that contract claims brought under § 301(a) of the Labor Management Relations Act are not subject to preemption by the National Labor Relations Board, see *Smith v. Evening News Association*, 371 U.S. 195 (1962); *Humphrey v. Moore*, 375 U.S. 335 (1964) (breach of duty of fair representation cognizable under § 301(a) if it involves a violation of the collective bargaining agreement). Similarly, the decision of the General

Counsel not to file a complaint on Peltzman's behalf has no res judicata effect, as it is not a final judgment on the merits, see *Aircraft & Engine Maintenance Employees, Local 290 v. E.I. Schilling Co.*, 340 F.2d 286, 289 (5 Cir. 1965), *cert. denied*, 382 U.S. 972 (1966); *Thomas v. Consolidation Coal Co.*, 380 F.2d 69, 77-78 (4 Cir.), *cert. denied*, 389 U.S. 1004 (1967); *International Union of Electrical Workers v. General Electric Co.*, 407 F.2d 253, 264 (2 Cir. 1968), *cert. denied*, 395 U.S. 904 (1969). Finally, the New York court's jurisdictional dismissal of Peltzman's action against his union does not bar him from bringing this suit. The New York court apparently dismissed his action against the union on the ground that Peltzman had alleged only unfair labor practices. Had he raised an independent federal claim, such as a breach of the duty of fair representation, it would clearly have been cognizable in that forum, see *Vaca v. Sipes*, 386 U.S. 171, 176-84 (1967); *Amalgamated Association of Street Employees v. Lockridge*, 403 U.S. 274, 299-301 (1971).³

Peltzman's claim on the merits may well turn out to be without force. If the initiation fee was uniformly required by the union constitution and by-laws, and was regularly demanded of those in his position, then it is likely that the union security clause was properly invoked and that the contract claim must fail. While the district court may have explored these possibilities below, we are not confident that its brief statement that "the defendant's refusal to hire plaintiff was lawful under the circumstances" reflects a careful consideration of Peltzman's contract claim and a determination that he had raised no material questions of

³ The state court apparently placed some weight on the fact that Peltzman's unfair labor practice claim was still pending before the General Counsel, 69 Misc.2d at 22, 327 N.Y.S.2d at 510. In light of that consideration, we think it particularly inappropriate to accord the state court decision any preclusive effect in this suit.

fact on that issue.⁴ We therefore remand this case for the district court to determine whether Central Gulf breached the collective bargaining agreement, and, if so, whether Peltzman's apparent failure to exhaust contractual grievance procedures should bar him from maintaining this suit.⁵

Reversed and remanded.

⁴ Had the defendant addressed itself more directly in its moving papers to Peltzman's contract claim, it might have been able to establish that there was no factual dispute over Peltzman's status as a union member. However, the defendant chose to stress the collateral estoppel and res judicata elements of this case and to present only brief and conclusory allegations concerning the merits of the contract claim.

⁵ Peltzman argues that he should be excused from the normal requirement that he exhaust the contractual grievance procedures, see *Republic Steel Corp. v. Maddox*, 379 U.S. 650 (1965), because it was the union that instigated the company's alleged breach of contract. If the district court should find that Peltzman's contract claim is a good one, it should then determine whether he should be excused from the exhaustion requirement because of a breach of the duty of fair representation by the union, *Vaca v. Sipes*, 386 U.S. 171 (1967), or because his pursuit of grievance proceedings, through the union, would plainly have been futile, see *Glover v. St. Louis-San Francisco Ry.*, 393 U.S. 324 (1969).

19a

NOTICE OF APPEAL
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

73 Civ.2911

ARCHIE PELTZMAN,

Plaintiff,

-against-

CENTRAL GULF LINES INC.(SUED HEREIN AS CENTRAL GULF STEAMSHIP CO.)

Defendant,

Notice is hereby given that Archie Peltzman, the plaintiff above named, hereby appeals to the UNITED STATES COURT OF APPEALS for the Second Circuit from the final judgment entered by the Honorable Whitman Knapp, United States District Judge, dated December 13, 1974, that defendant Central Gulf Lines have judgment against the plaintiff dismissing the complaint.

Dated New York, New York

December 19, 1974

ARCHIE PELTZMAN

Plaintiff, Pro Se
8725 16th Ave.
Bklyn, N.Y. 11214
256 -4658

To: Lorenz, Finn, Giardino, & Lambos
Attorneys for Defendant
25 Broadway
New York, 10006
943 -2470

Clerk, U.S. District Court
Southern District of N.Y.
Foley Square; N.Y. 10007

A8-20

UNITED STATES DISTRICT COURT

A.8

FOR THE SOUTHERN DISTRICT OF NEW YORK

ARCHIE PELTZMAN,
PLAINTIFF

-against-

CENTRAL GULF STEAMSHIP CO.
DEFENDANT

X
"
"
" CIVIL ACTION 73-2911
"
" AMENDED COMPLAINT
"
"
"
X

AMENDED COMPLAINT IN PERSONAM FOR WRONGFUL DISCHARGE,
FOR DECLARATORY JUDGMENT, AND INJUNCTIVE RELIEF.

Plaintiff in person complaining of the defendant, respectfully alleges:

1. The Court has jurisdiction of this action under the Maritime Law Title 46- Shipping, Chapter 18-Merchant Seaman, Sec 594, and under 28 U.S.C. 1331, 1333, 1337, 2201. Also by reason that it is predicated upon diversity of citizenship, and upon a maritime tort, and is an action for an amount in excess of 10,000 dollars exclusive of interest and costs.

2. That upon information and belief defendant is a foreign corporation duly organized and existing under and by virtue of the laws of the State of Delaware, engaged in the shipping business with an office for the transaction of business in the borough of Manhattan, City and County and State of New York. Defendant's principal place of business is not within the State of New York, but located in New Orleans, Louisiana.

3. Archie Peltzman plaintiff in person complaining of defendants is a resident of Brooklyn, New York City, and a citizen of the United States.

4. This complaint is brought pursuant to the provisions of 28 U.S.C. Sec. 1916, permitting seaman to file suit without prepayment of costs, and this action is an admiralty and maritime claim within the meaning of Rule 9 h, for damages based on an allegedly wrongful discharge, and failure by the defendant to permit plaintiff to re-ship.

(a). That the wrongful discharge and failure to allow plaintiff to reship caused him mental distress and financial losses of approximately \$1300 monthly, plus other financial losses of approximately \$1300 monthly of vacation, pension, and health insurance benefits, and these losses are still continuing up to present time.

That at all times hereinafter mentioned the defendant owned, operated and controlled the S/S Green Ridge, a merchant vessel registered under United States registry.

That the plaintiff had a permanent assignment as a Radio Officer aboard the S/S Green Ridge, commencing on August 6, 1970, and made three foreign voyages totaling nine months, signing articles for each voyage in the capacity and at the wages listed in the articles, which will be introduced into evidence at the trial; and that the plaintiff performed his duties aboard said vessel in accordance with the articles, and with the approval of the Master of the vessel, until May 28, 1971.

. That on May 28, 1971, plaintiff asked the defendant for a replacement of one trip off, which he was entitled to under the contract which the defendant and plaintiff's union the American Radio Association had signed, and the defendant instead of giving him a letter containing a leave of absence for one trip as the plaintiff had requested, handed him the following letter, Quote. Dear Mr. Peltzman,

In accordance with your request I have ordered a replacement. Please be advised that you will not be able to rejoin the vessel without proper clearance from the union.

Yours truly,

W.C. Kenopke
Master S/S Green Ridge

8. That the plaintiff was not rehired when the S/S Green Ridge returned from a voyage on or about September 10, 1971, because the company informed plaintiff that the union had sent to the ship a permanent replacement for the plaintiff, and the union contract prevented them from hiring anyone not sent to them from the union hiring hall.

9. That the plaintiff was wrongfully discharged as of September 10, 1971, without cause under the maritime law, and under the union contract which precludes the dismissal of plaintiff without a hearing, or arbitration under the contract in effect between the union and company, and such contract was made for the benefit of the plaintiff as a third party beneficiary. No hearing and no arbitration was ever held prior to dismissal.

10. That the controversy as to the plaintiff's membership or non-membership in the union was a labor dispute, and had no relevance whatsoever as to the plaintiff's right to continue his work aboard the S/S Green Ridge, since his assignment was a permanent one, he was entitled to a vacation, and since the maritime law precludes the discharge of a seaman unless there is proof of persistent and incorrigible disobedience on the part of a seaman in relation to his ship, and captain's orders.

11. That plaintiff since his discharge from the S/S Green Ridge has not worked in the maritime industry due to the fact that this industry is a closed shop, and unless a seaman has a clearance assignment to a vessel, he can not be hired, or rehired after a vacation without such clearance from the union.

12. Plaintiff alleges and believes that under maritime law, the United States Constitution, the New York State Constitution, he has a right to work and pursue a lawful occupation without being discharged because of a labor controversy, or a contract which provides for membership or non-membership in a labor union as a condition of employment.

13. That by reason of the defendant's action in discharging plaintiff, he has been deprived of his property rights to a permanent job aboard the S/S Green Ridge, and has lost wages in the sum of \$1031.13 monthly, plus overtime pay, vacation pay, and pension and health payments to the benefit of the plaintiff, according to the contract between the union and the company, which was for the benefit of the plaintiff as a third party beneficiary, to the present time, or till such time as the S/S Green Ridge was sold or laid up. Plaintiff has no knowledge as to the continued ownership of the vessel.

14. No previous application for the relief herein requested has been made, and plaintiff has no adequate remedy at law.

15. Wherefore plaintiff respectfully prays,

(a) that defendant herein be required to answer this bill of complaint.

(a) (1) That plaintiff be compensated for the financial losses suffered by his wrongful discharge, and that punitive damages be added for the benefit of plaintiff, in accordance with the maritime law, and such other federal or state laws which protect the individual from coercive, illegal, arbitrary, discriminatory, and bad faith acts of employers.

(b) that pending the trial of this cause plaintiff be reinstated to his job if the vessel is still operating under the control of the company.

(c) demands judgment declaring that plaintiff was wrongfully discharged contrary to the maritime law.

(d) declaring that the grounds of defendant's reasons for discharging plaintiff unless based on the maritime law, were illegal, unconstitutional, and void as applied to the plaintiff.

(e) directing such other, further and different relief as may be just and proper in the premises.

August 16, 1973

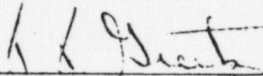
Archie Peltzman
Plaintiff Archie Peltzman pro se
8725 16th Avenue

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GENERAL SERVICES ADMINISTRATION
National Archives and Records Service

To all to whom these presents shall come, Greeting:

By virtue of the authority vested in me by the Administrator of General Services, I certify on his behalf, under the seal of the National Archives of the United States, that the attached reproduction(s) is a true and correct copy of documents in his custody.

SIGNATURE 	
NAME Thomas F. Greitz	DATE Dec.13,1973
TITLE Director, Federal Archives & Records Center	
NAME AND ADDRESS OF DEPOSITORY FEDERAL ARCHIVES and RECORDS CENTER 641 Washington Street New York, NY 10014	

(scal)

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FORM NLRB 508 11-5-1		UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD		Form Approved Budget Bureau No. 64-R003.9	
CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS					
A CHARGE IN WRITING OF AN UNFAIR LABOR PRACTICE, AS SO PROVIDED BY GROUP 1, PART 1, OF THE NATIONAL LABOR RELATIONS ACT, OR AS SO PROVIDED BY GROUP 2, PART 1, OF THE NATIONAL LABOR RELATIONS ACT, SHALL NOT BE ISSUED UNLESS THE CHARGING PARTY AND ANY NATIONAL OR INTER- NATIONAL LABOR ORGANIZATION OF WHICH IT IS AN AFFILIATE OR CONSTITU- ENT UNIT HAVE COMPLIED WITH SECTION 9 (f), (g), and (h) OF THE NATIONAL LABOR RELATIONS ACT.				DO NOT WRITE IN THIS SPACE CASE NO. 4-CB-296 DATE FILED 10-31-55 COMPLIANCE STATUS CHECKED BY: md	
INSTRUCTIONS: File an original and 3 copies of this charge, and an addi- tional copy for each organization, each local and each individual named in item 1 with the NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.					
1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT					
NAME American Radio Association, CIO					
ADDRESS 5 Beekman Street, New York, N. Y.					
THE ABOVE-NAMED ORGANIZATION(S) OR ITS AGENTS HAS (HAVE) ENGAGED IN AND IS (ARE) ENGAGING IN UNFAIR LABOR PRACTICES WITHIN THE MEANING OF SECTION 8(a) SUBSECTION(S) (2) and (1)(A) OF THE NATIONAL LABOR RELATIONS ACT, AND THESE UNFAIR LABOR PRACTICES ARE UNFAIR LABOR PRACTICES AFFECTING COMMERCE WITHIN THE MEANING OF THE ACT. (List subsections)					
2. BASIS OF THE CHARGE (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)					
<p>Since on or about September 2, 1955, the above-named labor organization, by its agents, officers and representatives, have caused Paco Tankers, Inc. and/or Keystone Shipping Co. to refuse to hire Edwin D. Aber because of his non-membership in the above-named labor organization.</p> <p>The above-named labor organization has entered into an illegal hiring arrangement pursuant to a contract with the above-named employers.</p>					
3. NAME OF EMPLOYER Paco Tankers, Inc. and Keystone Shipping Co.					
4. LOCATION OF PLANT INVOLVED (Street, City, and State) (Paco)-----100 W. 10th St., Wilmington, Del. (Ship involved: SS "Pine Ridge", (Keystone)-----1000 Walnut St., Phila., Pa. (White Fuel Docks, Castle Island, (Boston, Mass.					
5. TYPE OF ESTABLISHMENT (Factory, mine, whole- saler, etc.) Owner and operator of ships		6. IDENTIFY PRINCIPAL PRODUCT OR SERVICE Owner of ships (Paco) Operator of ships (Keystone)		7. NO. OF WORKERS EMPLOYED (Paco) 1000(Keystone)	
8. FULL NAME OF PARTY FILING CHARGE The Radio Officers Union of the Commercial Telegraphers Union					
9. ADDRESS OF PARTY FILING CHARGE (Street, City, and State) 1140 Broadway, New York 18, N. Y.				10. TEL. NO. Lackawanna 4-5093	
11. DECLARATION					
I DECLARE THAT I HAVE READ THE ABOVE CHARGE AND THAT THE STATEMENTS THEREIN ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.					
BY <u>Fred M. Howe</u> (Signature of representative or person making charge) Fred M. Howe General Secretary-Treasurer (Title or office, if any)					
(Date) _____					
WILLFULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U. S. CODE, TITLE 18, SECTION 1001)					

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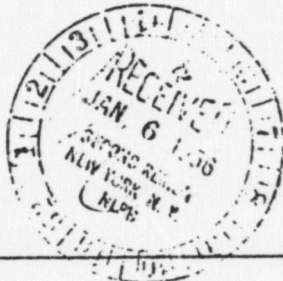
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FORM NLRB-508 (7-52)		UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD		Form Approved Budget Bureau No. 64-R103.5	
CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS					
Where a charge is filed by a labor organization, or an individual or group acting on its behalf, a complaint based upon such charge will not be issued unless the charging party and any national or international labor organization of which it is an affiliate or constituent unit have complied with Section 9 (f), (g), and (h) of the National Labor Relations Act.				DO NOT WRITE IN THIS SPACE CASE NO. <u>4-11-211-296</u> DATE FILED <u>9-6-55</u> COMPLIANCE STATUS CHECKED BY:	
INSTRUCTIONS: File an original and 3 copies of this charge, and an additional copy for each organization, each local and each individual named in item 1 with the NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.					
1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT					
NAME American Radio Association, CIO					
ADDRESS 5 Beekman Street, New York, N. Y.					
THE ABOVE-NAMED ORGANIZATION(S) OR ITS AGENTS HAS (HAVE) ENGAGED IN AND IS (ARE) ENGAGING IN UNFAIR LABOR PRACTICES WITHIN THE MEANING OF SECTION 1461 SUBSECTION(S) <u>(2) and (1)(A)</u> OF THE NATIONAL LABOR RELATIONS ACT, AND THESE UNFAIR LABOR PRACTICES ARE UNFAIR LABOR PRACTICES AFFECTING COMMERCE WITHIN THE MEANING OF THE ACT. (List subsections)					
2. BASIS OF THE CHARGE (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)					
<p>Since on or about September 2, 1955, the above-named labor organization, by its agents, officers and representatives, have caused Charles Kurz Company, Inc. and/or Keystone Shipping Co. to refuse to hire Edwin D. Aber because of his non-membership in the above-named labor organization.</p> <p>The above-named labor organization has entered into an illegal hiring arrangement pursuant to a contract with the above-named employers.</p>					
3. NAME OF EMPLOYER Charles Kurz Company, Inc., and Keystone Shipping Co.					
4. LOCATION OF PLANT INVOLVED (Street, City, and State) 1000 Walnut St., Phila. 7, Pa. (both companies) (ship involved: SS "Pine Ridge", White Fuel Docks, Castle Island, Boston, Mass.					
5. TYPE OF ESTABLISHMENT (Factory, mine, wholesaler, etc.) Owner and operator of ships		6. IDENTIFY PRINCIPAL PRODUCT OR SERVICE owner of ships (Kurz) operator of ships (Keystone)		7. NO. OF WORKERS EMPLOYED (Kurz) 1000 (Keystone)	
8. FULL NAME OF PARTY FILING CHARGE The Radio Officers Union of the Commercial Telegraphers Union					
9. ADDRESS OF PARTY FILING CHARGE (Street, City, and State) 1140 Broadway, New York 18, N. Y.				10. TEL. NO. Lackawanna 4-5093	
11. DECLARATION					
I DECLARE THAT I HAVE READ THE ABOVE CHARGE AND THAT THE STATEMENTS THEREIN ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.					
BY <u>Fred M. Howo</u> (Signature of representative of person making charge) Fred M. Howo General Secretary-Treasurer (Title or office, if any)					
9-6-55 (Date)					
WILLFULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U. S. CODE, TITLE 18, SECTION 1001)					

ONLY COPY AVAILABLE

UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD		Form Approved Budget Bureau No. 64-R003.5
CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS		
<small>Where a charge is filed by a labor organization, or an individual in its name, the filing of such charge, a complaint filed with such charge will not be accepted unless the charging party and any national or international labor organization of which it is an affiliate or constituent unit have complied with Section 9 (f), (g), and (h) of the National Labor Relations Act.</small>		DO NOT WRITE IN THIS SPACE
INSTRUCTIONS: File an original and 3 copies of this charge, and an additional copy for each organization, each local and each individual named in item 1 with the NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.		CASE NO. 4-UB-791
1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT		DATE FILED 8-15-55
NAME American Radio Association, CIO		
ADDRESS 5 Beekman Street, New York, N. Y.		
<small>THE ABOVE-NAMED ORGANIZATION(S) OR ITS AGENTS HAS (HAVE) ENGAGED IN AND IS (ARE) ENGAGING IN UNFAIR LABOR PRACTICES WITHIN THE MEANING OF SECTION 8(A) SUBSECTIONS (2) AND (1)(A) OF THE NATIONAL LABOR RELATIONS ACT, AND THESE UNFAIR LABOR PRACTICES ARE UNFAIR LABOR PRACTICES AFFECTING COMMERCE WITHIN THE MEANING OF THE ACT. (List subsections)</small>		
2. BASIS OF THE CHARGE (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)		
<p>Since on or about August 12, 1955, the above-named labor organization, by its agents, officers and representatives, have caused Charles Kurz Company, Inc. and/or Keystone Shipping Co. to refuse to hire William A. Hanks because of his non-membership in the above-named labor organization.</p> <p>The above-named labor organization has entered into an illegal hiring arrangement pursuant to a contract with the above-named employers.</p>		
3. NAME OF EMPLOYER Charles Kurz Company, Inc., and Keystone Shipping Co.		
4. LOCATION OF PLANT INVOLVED (Street, City, and State) 1000 Walnut St., Phila. 7, Pa. (both companies) (ship involved: aboard S.S. Fort Fetterman, Esso Docks, Everett, Mass.)		
5. TYPE OF ESTABLISHMENT (Factory, mine, wholesaler, etc.) Owner and operator of ships	6. IDENTIFY PRINCIPAL PRODUCT OR SERVICE owner of ships (Kurz) operator of ships (Keystone)	7. NO. OF WORKERS EMPLOYED (Kurz) 1000 (Keystone)
8. FULL NAME OF PARTY FILING CHARGE The Radio Officers Union of the Commercial Telegraphers Union		
9. ADDRESS OF PARTY FILING CHARGE (Street, City, and State) 1440 Broadway, New York 18, N. Y.		10. TEL. NO. Lackawanna 4-5093
11. DECLARATION		
I DECLARE THAT I HAVE READ THE ABOVE CHARGE AND THAT THE STATEMENTS THEREIN ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.		
BY <u>Fred M. Howe</u> <small>(Signature of representative or person making charge)</small> Fred M. Howe General Secretary-Treasurer <small>(Title or office, if any)</small>		
August 15, 1955 <small>(Date)</small>		
<small>WILFULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U. S. CODE, TITLE 18, SECTION 1001)</small>		

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UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS		Form Approved Budget Bureau No. 64-0003.4
Where a charge is filed by a labor organization, or an individual or group acting on its behalf, a complaint based upon such charge will not be issued unless the charging party and any national or international labor organization of which it is an affiliate or constituent unit have complied with Section 9 (f), (g), and (h) of the National Labor Relations Act.		DO NOT WRITE IN THIS SPACE CASE NO. 2-CB-1659 DATE FILED 1-6-56
INSTRUCTIONS: File an original and 3 copies of this charge, and an additional copy for each organization, each local and each individual named in item 1 with the NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.		COMPLIANCE STATUS CHECKED BY:
1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT		
NAME American Radio Association, AFL-CIO		
ADDRESS 5 Leekman Street, New York, N. Y.		
THE ABOVE-NAMED ORGANIZATION(S) OR ITS AGENTS HAS (HAVE) ENGAGED IN AND IS (ARE) ENGAGING IN UNFAIR LABOR PRACTICES WITHIN THE MEANING OF SECTION 1(b) SUBSECTION(S) (2) OF THE NATIONAL LABOR RELATIONS ACT, (List subsections) AND THESE UNFAIR LABOR PRACTICES ARE UNFAIR LABOR PRACTICES AFFECTING COMMERCE WITHIN THE MEANING OF THE ACT.		
2. BASIS OF THE CHARGE (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)		
<p>On or about November 7, 1955 and December 7, 1955 the above named Labor Organization by its officers, agents and employees attempted to cause T. J. Stevenson Co. to discharge Myron E. Chandler who resides at 33 Mountain Avenue, Box 1, White Meadow Lake, Rockaway, N. J. because of his lack of membership in said labor organization.</p>		
		
3. NAME OF EMPLOYER T. J. Stevenson Co.		
4. LOCATION OF PLANT INVOLVED (Street, City, and State) Pier 24 North River, New York 13, N. Y.		
5. TYPE OF ESTABLISHMENT (Factory, mine, wholesaler, etc.) Steamship company	6. IDENTIFY PRINCIPAL PRODUCT OR SERVICE ships freight	7. NO. OF WORKERS EMPLOYED Approx. 250
8. FULL NAME OF PARTY FILING CHARGE Radio Officers' Union of the Commercial Telegraphers Union, AFL-CIO		
9. ADDRESS OF PARTY FILING CHARGE (Street, City, and State) 110 Broadway, Room 1568, New York, N. Y.		10. TEL. NO. LA 4-1093
11. DECLARATION		
I DECLARE THAT I HAVE READ THE ABOVE CHARGE AND THAT THE STATEMENTS THEREIN ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.		
BY <u>Fred M. Howe</u> (Signature of representative or person making charge) Fred M. Howe, Secy. Treas.		
1/6/56 (Date)		
(Title or office, if any)		
WILLFULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U. S. CODE, TITLE 18, SECTION 1001)		

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NOTICE TO ALL MEMBERS

of American Radio Association, AFL-CIO, Employees of and Applicants for employment with Employers with whom we have collective bargaining contracts. Pursuant to a Decree of the United States Court of Appeals, enforcing an Order of the National Labor Relations Board, based upon a stipulation providing for a consent decree in an appropriate circuit of the United States Court of Appeals and in order to effectuate the policies of the National Labor Relations Act, we hereby notify you that:

WE WILL NOT give effect to or enforce such provisions, if any, in our collective bargaining agreements with employers which give to us final authority to bar transfers of radio officers from ship to ship; and we will not include such provisions in any future collective bargaining agreement;

WE WILL NOT, in the operation of our hiring halls, require job applicants to agree, in advance, as a condition of job referral for employment, to abide by or comply with our constitution and/or shipping rules, except to the extent authorized by Section 8 (a) (3) of the Act or by Coast Guard or other governmental regulations.

WE WILL NOT, in the operation of our hiring halls, require non-members to pay registration fees as a condition of job referral for employment;

WE WILL NOT, in any like or related manner, cause or attempt to cause T. J. Steveson & Co., Inc., Charles Kurz Company, Inc., Keystone Shipping Co., Paco Tankers Inc. or any other employer to discriminate against employees or prospective employees in violation of Section 8 (a) (3) of the National Labor Relations Act.

WE WILL NOT, in any like or related manner, restrain or coerce employees or prospective employees of T. J. Steveson Co., Inc., Charles Kurz Co., Inc., Keystone Shipping Co., Paco Tankers, Inc., or any other employer, in the exercise of the rights guaranteed by Section 7 of the Act, except to the extent that such rights may be effected by an agreement requiring membership in the Respondent as a condition of employment as authorized by Section 8 (a) (3) of the Act.

AMERICAN RADIO ASSOCIATION, AFL-CIO
(Labor Organization)

Dated _____ By _____
(Representative) (Title)

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

NATIONAL LABOR RELATIONS BOARD,)	
)	
Petitioner,)	
)	
v.)	
)	
AMERICAN RADIO ASSOCIATION, AFL-CIO,)	
)	
Respondent.)	

DECREE

The National Labor Relations Board having on April 11, 1957, issued an order against Respondent, American Radio Association, AFL-CIO, its officers, agents, successors and assigns, pursuant to a stipulation between American Radio Association, AFL-CIO, (hereinafter called Respondent) and Counsel for the General Counsel on behalf of the National Labor Relations Board dated January 25, 1957, and the parties having consented to the entry of a decree of this Court enforcing the order, and the Board having petitioned this Court for the enforcement of its order; upon consideration of said petition for enforcement and stipulation,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Respondent, American Radio Association, AFL-CIO, its officers, agents, successors and assigns shall:

1. Cease and desist from:

(a) Enforcing, applying, or continuing in effect such provisions, if any, of collective bargaining agreements with T. J. Stevenson Co., Inc., Charles Kurz Company, Inc., Keystone Shipping Co., Paco Tankers, Inc., or any other employer with which Respondent has a collective bargaining agreement which confer upon Respondent final authority to bar proposed transfers of the contracting companies' radio officer employees from ship to ship; or providing in any future agreement with any employer for such final authority on the part of Respondent:

(b) Operating the exclusive hiring halls provided for in the aforesaid collective bargaining agreements so as to require applicants for employment to agree in advance, as a condition of job referral for employment,

to abide by or comply with the provisions of Respondent's constitution and/or shipping rules, except to the extent authorized by Section 8 (a)(3) of the National Labor Relations Act, as amended, (hereinafter called the Act), or by Coast Guard or other governmental regulations.

(c) Operating the exclusive hiring halls provided for in the aforesaid collective bargaining agreements so as to require non-members of Respondent to pay registration fees as a condition of job referral or employment;

(d) In any like or related manner, causing or attempting to cause T. J. Stevenson Co., Inc., Charles Kurz Company, Inc., Keystone Shipping Co., Paco Tankers, Inc., or any other employer to discriminate against employees or prospective employees in violation of Section 8 (a) (3) of the Act;

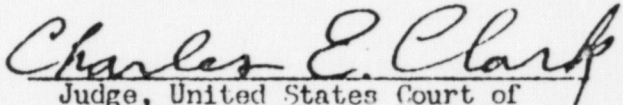
(e) In any like or related manner, restraining or coercing employees of T. J. Stevenson Co., Inc., Charles Kurz Company, Inc., Keystone Shipping Co., Paco Tankers, Inc., or any other employer in the exercise of the rights guaranteed by Section 7 of the Act, except to the extent that such rights may be affected by an agreement requiring membership in the Respondent as a condition of employment as authorized by Section 8 (a)(3) of the Act.

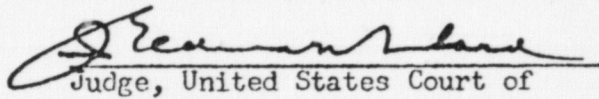
2. To the extent that it has not already done so, take the following affirmative action which the Board has found will effectuate the policies of the Act:

(a) Post in conspicuous places in its hiring halls, offices, and in all places where notices to members or applicants for employment are customarily posted, copies of the Notice attached hereto and made part hereof. Copies of said Notice to be furnished by the Regional Director of the National Labor Relations Board for the Second Region, New York, New York after being duly signed by an official representative of Respondent, shall be posted by Respondent immediately upon receipt thereof and maintained by it for a period of sixty (60) consecutive days thereafter. Reasonable steps shall be taken by Respondent to insure that said Notices are not altered, defaced, or covered by any other material.

(b) Mail to the aforesaid Regional Director signed copies of the annexed Notice for posting, the Companies willing, at the offices, docks and on ships of T. J. Stevenson Co., Inc., Charles Kurz Company, Inc., Keystone Shipping Co., and Paco Tankers, Inc., in places where notices to employees are customarily posted. Copies of said Notice, to be furnished by the said Regional Director shall, after being signed as provided in paragraph 2 (a), be forthwith returned to the aforesaid Regional Director for posting.

(c) Notify the said Regional Director in writing, within ten (10) days from the date of this Decree, what steps the Respondent has taken to comply herewith.


Judge, United States Court of
Appeals for the Second Circuit


Judge, United States Court of
Appeals for the Second Circuit

Filed: July 19, 1957

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SECOND REGION

AMERICAN RADIO ASSOCIATION, AFL-CIO

and

THE RADIO OFFICERS UNION OF THE
COMMERCIAL TELEGRAPHERS UNION OF
AMERICA, AFL-CIO

Case Nos. 2-CB-1659
2-CB-1718
(Post 4-CB-291)
2-CB-1719
(Post 4-CB-296)

C O M P L A I N T

It having been charged by The Radio Officers Union of the Commercial Telegraphers Union of America, AFL-CIO, 1440 Broadway, New York, New York, that American Radio Association, AFL-CIO, 5 Beekman Street, New York, New York, herein called Respondent, has engaged in and is now engaging in certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 61 Stat. 136, hereinafter referred to as the Act, and the said cases having been consolidated for hearing, the General Counsel of the National Labor Relations Board, on behalf of the Board, by the Regional Director for the Second Region, designated by the Board's Rules and Regulations - Series 6, as amended, Section 102.15, hereby issues this consolidated Complaint and alleges as follows:

1. (a) A copy of the Charge in Case No. 2-CB-1659 was served by registered mail upon Respondent on January 9, 1956.

(b) A copy of the Charge in Case No. 2-CB-1718 (former number 4-CB-291) was served by registered mail upon Respondent on August 16, 1955.

(c) A copy of the Charge in Case No. 2-CB-1719 (former number 4-CB-296) was served by registered mail upon Respondent on September 6, 1955. A copy of the Amended Charge in said case was served by registered mail upon Respondent on October 31, 1955.

2. T. J. Stevenson Co., Inc., Charles Kurz Company, Inc., Keystone Shipping Co., and Paco Tankers, Inc., herein respectively referred to as Stevenson, Kurz, Keystone, and Paco, are and at all times mentioned herein

shipping concerns engaged in operating their own ships and ships
by them in coastwise and foreign shipping.

3. At all times herein mentioned, each of the aforesaid shipping
has maintained its principal office and place of business at the
set forth below:

<u>Name of Company</u>	<u>Address</u>
Stevenson	Pier 34, North River, New York, N.Y.
Kurz	1000 Walnut Street, Philadelphia, Pa.
Keystone	1000 Walnut Street, Philadelphia, Pa.
Paco	100 West 10th Street, Wilmington, Del.

4. During the year 1955, each of the aforesaid shipping concerns
a gross revenue in excess of \$100,000 from transporting by steamship,
course and conduct of its business operations, articles and commodities
state and foreign commerce between various states of the United States
between the United States and foreign countries.

5. Each of the aforesaid shipping concerns is, and has been at all
material herein, engaged in commerce within the meaning of Section 2(6)
of the Act.

6. Respondent is, and has been at all times material herein, a
organization within the meaning of Section 2(5) of the Act.

7. On or about June 16, 1955, Respondent entered into separate
bargaining agreements with a substantial number of shipping
including Stevenson, Kurz, Keystone and Paco, relating to the hire,
conditions of employment of their radio officer employees; and
aforesaid date Respondent has maintained in effect and enforced
agreements.

8. From or about June 16, 1955, to on or about September 5, 1956,
collective bargaining agreements, inter alia, conferred upon Respondent
authority to bar transfers of radio officer employees from one ship

9. In accordance with, and pursuant to the terms of the aforesaid collective bargaining agreements, Respondent at all times material herein has maintained and operated, and now maintains and operates, exclusive hiring halls for the referral of all radio officer job applicants to the shipping concerns under contract with Respondent.

10. Pursuant to agreement, arrangement and understanding between Respondent and the shipping concerns under contract with Respondent, and/or with the consent or acquiescence of said shipping concerns, Respondent, in the operation of its hiring halls, did engage in the following acts, conduct and practices:

(a) During the period between on or about June 16, 1955 and on or about September 30, 1956, Respondent required radio officer job applicants who were nonmembers of Respondent to pay hiring hall registration fees in order to obtain job referrals to, or employment by, any of the shipping concerns under contract with Respondent.

(b) During the period between on or about June 16, 1955 and on or about May 31, 1956, Respondent required all radio officer job applicants, as a condition of job referral to, and/or employment by, any of the shipping concerns under contract with Respondent, to agree in writing to abide by and comply with the provisions of Respondent's constitution and shipping rules.

11. At all times material herein, Respondent's constitution and shipping rules have contained, inter alia, the following provisions and requirements:

(a) Members of Respondent, in order to be in good standing, must have paid all dues and assessments.

(b) Radio officers may not accept employment of any nature without clearance from Respondent.

(c) Members of Respondent are not entitled to clearance by Respondent for employment unless all their dues, assessments, or other financial obligations have been paid.

(d) Radio officers may not trade jobs or transfer from one job to another.

(e) When vessels change ownership, radio officers employed thereon must get new clearances from Respondent.

(f) Promotions to vacancies, where there is more than one radio officer on the job, are to be made from the remaining radio officers who, in Respondent's judgment, are competent and qualified and have complied with hiring hall rule and policies.

(g) Grievances with respect to assignments are to be adjudicated by Respondent.

(h) Radio officer assignment procedures may be changed by a majority vote of Respondent's members.

12. By the acts described above in paragraphs 8 and 10, and by each of said acts, Respondent did restrain and coerce, and is restraining and coercing, employees and prospective employees of Stevenson, Kurz, Keystone, Paco, and other employers in the exercise of the rights guaranteed in Section 7 of the Act, and thereby did engage in and is engaging in unfair labor practices within the meaning of Section 8(b)(1)(A) of the Act.

13. By the acts described above in paragraphs 8 and 10, and by each of said acts, Respondent did cause and/or attempt to cause, and is causing and/or attempting to cause, Stevenson, Kurz, Keystone, Paco and other employers to discriminate in regard to hire or tenure or terms or conditions of employment of their employees, or applicants and prospective applicants for employment, thereby encouraging membership in a labor organization, and Respondent did engage in and is engaging in unfair labor practices within the meaning of Section 8(b)(2) of the Act.

14. The activities of Respondent, described above in paragraphs 8 and 10, occurring in connection with the operations of Stevenson, Kurz, Keystone and Paco, described above in paragraphs 2, 3, 4 and 5, have a close, intimate and substantial relation to trade, traffic and commerce among the several states and with foreign countries, and tend to lead to labor disputes

burdening and obstructing commerce and the free flow of commerce and constitute unfair labor practices affecting commerce within the meaning of Section 8(b)(1)(A) and (2) and Section 2(6) and (7) of the Act.

WHEREFORE the General Counsel of the National Labor Relations Board, on behalf of the Board, by the Regional Director for the Second Region, on this 26th day of December, 1956, hereby issues this consolidated Complaint against American Radio Association, AFL-CIO, Respondent herein:

Charles T. Douds

CHARLES T. DOUDS

Charles T. Douds, Regional Director
National Labor Relations Board
2 Park Avenue
New York 16, New York

2. T. J. Stevenson & Co., Charles Kurz Co., Inc., Keystone Shipping Co., and Paco Tankers, Inc., hereinafter referred to as Stevenson, Kurz, Keystone and Paco, respectively, are and at all times material herein have been shipping concerns, engaged in operating their own ships and ships chartered by them in coastwise and foreign shipping.

3. At all times material herein, each of the aforesaid shipping concerns has maintained its principal office and place of business at the address set forth below:

<u>Name of Company</u>	<u>Address</u>
Stevenson	Pier 34 North River, New York, N. Y.
Kurz	1000 Walnut Street, Philadelphia, Penna.
Keystone	1000 Walnut Street, Philadelphia, Penna.
Paco	100 West 10th Street, Wilmington, Dela.

4. During the year 1955, each of the aforesaid shipping concerns derived a gross revenue in excess of \$100,000 from transporting by steamship, in the course and conduct of its business operations, articles and commodities in interstate and foreign commerce between various states of the United States and between the United States and foreign countries.

5. Each of the aforesaid shipping concerns is, and at all times material herein has been, engaged in commerce within the meaning of the Act.

6. Respondent is a labor organization within the meaning of Section 2(5) of the Act.

7. All parties hereto expressly waive filing of answer, hearing, intermediate report of Trial Examiner, the filing of exceptions and oral argument before the Board, the making of findings of fact or conclusions of law by the Board, and all further and other procedure before the Board to which the Respondent may be entitled under the Act or the Rules and Regulations of the Board.

8. This Stipulation, together with the charges, affidavits of service, Complaint, Order Consolidating Cases and Notice of Hearing shall constitute the entire record herein and shall be filed with the Board.

Master Stipulation

210

2. T. J. Stevenson & Co., Charles Kurz Co., Inc., Keystone Shipping Co., and Paco Tankers, Inc., hereinafter referred to as Stevenson, Kurz, Keystone and Paco, respectively, are and at all times material herein have been shipping concerns, engaged in operating their own ships and ships chartered by them in coastwise and foreign shipping.

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5. Each of the aforesaid shipping concerns is, and at all times material herein has been, engaged in commerce within the meaning of the Act.

6. Respondent is a labor organization within the meaning of Section 2(5) of the Act.

7. All parties hereto expressly waive filing of answer, hearing, intermediate report of Trial Examiner, the filing of exceptions and oral argument before the Board, the making of findings of fact or conclusions of law by the Board, and all further and other procedure before the Board to which the Respondent may be entitled under the Act or the Rules and Regulations of the Board.

8. This Stipulation, together with the charges, affidavits of service, Complaint, Order Consolidating Cases and Notice of Hearing shall constitute the entire record herein and shall be filed with the Board.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

No.

91791

TITLE

44

District of *N.Y.*
ATTORNEYS

For Appellant:

A. Norman Jones
Asst General Counsel

v.

American Radio Association et al
Respondents

For Appellee:

Herman E. Croft
W. Howard Catlin
32 Broadway

ONLY COPY AVAILABLE

DATE	FILINGS-PROCEEDINGS	CLERK'S FEES		Am Rej Emoi Re
		Appellant	Appellee	
Feb 1 1950	Filed petition	75		
2	" record			
5	" proof of service			
23	" 24 copies, petition			
23	" 24 copies, app. & reply, petition			
23	" brief, petitioners			
27	" proof of service			
Nov 1	" stipulation re argument			
Nov 1	" " " "			
28	" consent decree			
(A true copy.				
{ A. Daniel Terasi				
{ Vincent A. Catlin				
{ Clerk				
{ A. Catlin				
{ A. Catlin				

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
ARCHIE PELTZMAN,

Plaintiff,

-against-

CENTRAL GULF LINES, INC. (sued herein : 73 CIV. 2911 W.K.
as "CENTRAL GULF STEAMSHIP CO."),

Defendant.
-----x

:
:
: NOTICE OF MOTION FOR
SUMMARY JUDGMENT
: PURSUANT TO RULE 56

PLEASE TAKE NOTICE that upon the annexed motion
and affidavits of Clarence Edward Whitcomb sworn to the 4TH
day of *September*, 1974, and Bernard L. Smith sworn to on
the 6TH day of *September*, 1974, and upon the pleadings
and proceeding heretofore had herein, the undersigned will
move this Court at the U.S. Courthouse, Foley Square,
Borough of New York, City and State of New York, on the 4TH
day of *October*, 1974, at 2:00 o'clock in the afternoon of
that day, or as soon thereafter as counsel can be heard for
an Order granting Summary Judgment pursuant to Rule 56 of the
Federal Rules of Civil Procedure.

Dated: September 9th, 1974
New York, New York

LORENZ, FINN, GIARDINO & LAMBOS
Attorneys for Defendant
CENTRAL GULF LINES, INC.
(sued herein as "CENTRAL GULF
STEAMSHIP CO.")
25 Broadway (Suite 1755)
New York, New York 10004
(212) 943-2470

TO:

ARCHIE PELTZMAN
Plaintiff

8725 16th Avenue
Brooklyn, New York 11124

----- x

ARCHIE PELTZMAN,	:	Civil Action No.
	:	73 Civ. 2911 W.K.
Plaintiff,	:	
	:	MOTION FOR
-against-	:	<u>SUMMARY JUDGMENT</u>
	:	
CENTRAL GULF LINES, INC. (sued herein	:	Pursuant to
as "CENTRAL GULF STEAMSHIP CO."),	:	Rule 56
	:	
Defendant.	:	
	:	
	:	
----- x	:	

1. To grant summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure on the ground that there is no genuine issue as to any material fact and that the defendant is entitled to a judgment as a matter of law, on the ground that plaintiff has failed to state a claim upon which relief can be granted, in that:

Plaintiff was properly discharged pursuant to the union security clause of the contract between defendant and the American Radio Association, AFL-CIO, since plaintiff was not a member of the union at the time of his discharge by virtue of the fact that he had failed and refused to pay the initiation fee which was uniformly required by the union constitution and which was regularly demanded

44
of those in plaintiff's position.

Dated: September 9, 1974
New York, N. Y.

SS/ L7 Y & L
LORENZ, FINN, GIARDINO & LAMBOS
25 Broadway
New York, N. Y. 10004
212-943-2470
Attorneys for Defendant
Central Gulf Lines, Inc.

45

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
ARCHIE PELTZMAN,

Plaintiff,

-against-

:

: AFFIDAVIT IN SUPPORT
OF MOTION FOR
: SUMMARY JUDGMENT

CENTRAL GULF LINES, INC. (sued herein : 73 CIV. 2911 W.K.
as "CENTRAL GULF STEAMSHIP CO."),

Defendant.

:

:

-----x
STATE OF LOUISIANA)
) ss.:
PARISH OF ORLEANS)

CLARENCE EDWARD WHITCOMB, being duly sworn deposes
and says:

1. I am the Manager of Marine Personnel for
Central Gulf Lines, Inc. (Central Gulf), am employed in its
main headquarters located in New Orleans and am fully
familiar with the facts and circumstances herein.

2. This affidavit is submitted in support of
Central Gulf's Motion For Summary Judgment and in response
to plaintiff's request for a statement from "... the Port
Captain or other knowledgeable officer in this matter"

3. Plaintiff was employed by Central Gulf as a
radio operator for three consecutive voyages aboard its
vessel the SS Green Ridge during the period August 6, 1970
to May 28, 1971.

4. On or about May 24, 1971 I received a telephone call from the New Orleans American Radio Association, AFL-CIO (ARA) agent inquiring of the whereabouts of the Green Ridge. The agent informed me that the ARA had a problem with the radio officer, Mr. Peltzman, and would probably have to replace him. I advised him that the vessel would be in New York on or about May 27-28.

5. On or about May 27, Mr. Vallis of the New York ARA office telephoned and informed me that the ARA had demanded that Mr. Peltzman pay the required initiation fee and that if he refused he would have to be removed from his job.

6. On or about May 27, 1971 I called our New York office and spoke with Mr. George Atkinson, the Assistant Traffic Manager, and requested that he obtain clearance for the ARA representative to go aboard the Green Ridge when it arrived in New York - such clearance being required since the vessel was docking at the Bayonne Military Ocean Terminal. I also instructed Mr. Atkinson to inform the Master of the Green Ridge not to sign Mr. Peltzman on for the next voyage unless he produced a clearance from the union.

7. On May 28, 1971 Mr. Peltzman was handed a letter by the Captain which said, "In accordance with your request [for vacation] I have ordered a replacement. Please be advised that you will not be able to join the vessel without proper clearance from the union". (ExhibitA). Peltzman did not protest this action.

8. The Company also obtained an Individual Crew Information Form signed by the Master and plaintiff and which is made up in the normal course of business. It contained the notation, "This man requested a vacation relief - his union ARA Patrolmen states he can't . . . rejoin until he becomes a union member." (Exhibit B) At this point in time Mr. Peltzman was listed on our records as being on vacation.

9. On August 24, 1971 the Company sent 18 telegrams to persons on the Green Ridge who were on vacation - erroneously including Mr. Peltzman - requesting that they notify the company whether they intended signing on the next voyage.

10. On August 27th the Company received a telegram from Mr. Peltzman stating that he would rejoin and requested that the New York office arrange transportation. (Exhibit C) On August 28th the Company telegraphed Mr. Peltzman that transportation on returning from vacation was not payable under the contract (Exhibit D).

11. On August 30th, during a telephone conversation with the ARA New York office, I was advised that Mr. Peltzman was not cleared by the union to rejoin the Green Ridge as he still had not paid the required initiation fee which had been demanded of him in May. I immediately informed our New York office to advise Mr. Peltzman to disregard our notice to report since I had been informed that Mr. Peltzman was not in good standing with the union. On August 30th, the Company

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sent a telegram to Mr. Peltzman to disregard the previous notice to rejoin the SS Green Ridge as the ARA had permanently assigned a radio officer. The same telegram was sent on August 31st to his new address (Exhibits E & F, respectively).

12. Having been informed by the union in May that he would not be permitted to return until he obtained union clearance and having subsequently been informed in August that that union clearance had not been obtained - because of his refusal to pay the ARA initiation fee - the Company had no alternative but to refuse to employ Mr. Peltzman.

13. To do otherwise would have placed the Company in violation of Section 4(b) of the contract with the ARA which provides that:

"The Company agrees, as a condition of employment, that all employees in the bargaining unit shall become and remain members of the union thirty (30) days after date of hiring".

14. The only other employee of the Company who, to my knowledge had any conversations with representatives of the ARA concerning plaintiff's employment was George A. Atkinson who is now retired.

15. It is submitted that the Company properly invoked the union security clause and properly refused to re-employ Mr. Peltzman in view of the fact that he was not a member in good standing in the ARA. Accordingly it is

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ectfully submitted that his claim be denied in all
ects.

Clarence Edward Whitcomb
CLARENCE EDWARD WHITCOMB

to before me on this
day of September, 1974

John D. Kitter
Notary Public
Orleans Parish Louisiana
My Commission is for Life

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ULF SS CORP

GRAM DATE TO JUL WILLIAMS 3530 STARDUST JR MARTINEZ
RED MRS WILLIAMS 454PM. MRS WILLIAMS ADVISES
IAMS IN SAIGON
UNION TEL CO.

P NLN

P NLN

C176 SS84-9 NS LLD213 PL (SY

F

Y 27 615P EDT

ULF STEAMSHIP CO

ROUTE TLX)

YOUR TELEGRAM THREE DAYS LATE WILL REJOIN REQUEST
OFFICE ARRANGE TRANSPORTATION AND CALL TELEPHONE
OR ARRANGEMENTS
ELTZMAN

✓
NOTE: NO TRANSPORTATION
PAYABLE

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Ex "C"

51

WJ NLND

CENTRASHIP NLN

HW 1 FAST PAID TELEGRAM

CONFIRMATION OF DELIVERY REQUESTED

EB 9802 FPD NEW ORLEANS

AUGUST 30 1971 10.03AM CDT

MR ARCHIE PELTZMAN
185 WORTMAN AVENUE
BROOKLYN NY 11227

DISREGARD PREVIOUS NOTICE TO REJOIN OUR SS GREEN RIDGE
AS ARA HAVE PERMANENTLY ASSIGNED A RADIO OFFICER

CENTRAL GULF SS CORP

CEW

ONLY COPY AVAILABLE

Ex "E"

52

WJ NLND

CENTRASHIP NLN

HW 1 FAST PAID TELEGRAM PLEASE

CONFIRMATION OF DELIVERY REQUESTED

EB 9801 FPD NEWORLEANS AUGUST 28, 1971 11:53AM CDT

ARCHIE PELTZMAN
185 WORTMAN AVENUE
BROOKLYN NY 11207

TRANSPORTATION RETURNING FROM VACATION NOT PAYABLE STOP
CONFIRM OR OTHERWISE REJOINING AT YOUR TIME AND EXPENSE
STOP IF NAGATIVE WILL CONSIDER YOUR EMPLOYMENT TERMINATED
STOP CONFIRM

CENTRAL GULF STEAMSHIP CORPORATION

CEW

WJ NLND

CENTRASHIP NLN

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84 D"

Ref #5

WJ NLN
CENTRASHIP NLN

DELIVERY CONFIRMATION-REQUESTED

HW 1 FAST PAID TELEGRAM

EB 9816 FPD NEWORLEANS SEPT 7, 1971 2:10PM CDT

MR ARCHIE PELTZMAN
8725 16TH AVENUE
BROOKLYN NEW YORK 11214

REF YOUR 9/5 WIRE ARA WORKING AGREEMENT VERY CLEAR STOP
WE DENY ALL LIABILITY YOUR CASE

CENTRAL GULF STEAMSHIP CORP

CFW

WJ NLN
CENTRASHIP NLN

ONLY COPY AVAILABLE

TX NLN0017 SSJ036 NS AA...03 (AT 48AA603003)PD
THICBD NYK 1018A EDT09/05/71

*Received in Teletype Dept
on 9-7-71 8:45A - 9-7-71*

02ZC 037 NYND FR PDF TDN BROOKLYN NY 5 840A EDT
CAPT C WHITCOMB
TLX 0587435
INTERNATIONAL TRAND MART
C CANEL ST
URLUS 70130

*Peltz
Exh. #4*

BT

RE YOUR SEPT 1 1971 LETTER REPLYING MY AUG 17 1971
LETTER UNDERSTAND YOUR POSITION MY POSITION IS
CENTRAL GULF AND ARA BOTH RESPONSIBLE LEGALY
FOR MY DISCHARGE FROM SS GREENRIDGE IF SS
GREENRIDGE SAILES WITH ARA ASSIGNED RADIO OFFICER AS
CONTIPLATED REPLACING ME
PELTZMAN.

NNNN(1020A EDT)

9-5-71

CENTRASHIP NO

810 741 3188 CLG COLLECT G PLS

WLO MOBILERADIO SEPT 5
CAPT SAM

*Received in Telex
Dept 9-7-71 8:45A, m by AFH*

0600 WAITING ON BARGES PAN CITY

ENDCENTRASHIP NO

P

9-5-71

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NAME

Peltzman, Archie

CERTIFICATE OF EFFICIENCY NR

HOME ADDRESS

PHONE

LOCAL ADDRESS

PHONE

DUES PAYABLE

CREDITS

1ST QUARTER	19 47	12-	7/1/47	3529	12-
2ND QUARTER		12-	"	3530	12-
3RD QUARTER		12-	11/5/48	6587	12-
4TH QUARTER		12-	"	6588	12-
1ST QUARTER	19 48	12-	11/5/48	6589	12-
2ND QUARTER		12-	7/1/49	2849	12-
3RD QUARTER		15-	"	504	15-
4TH QUARTER		15-	4/1/49	4492	15-
1ST QUARTER	19 49	15-	4/1/49	4493	15-
2ND QUARTER		15-	5/16/49	5426	15-
3RD QUARTER					
4TH QUARTER					

ARREARS

3/31/50

~~Suspended~~
CREDITS

ASSESSMENTS

CREDITS

S1-47	25	7/1/47	8/3471A	25
S2-47	25	"	8/3472A	25
S3-47	25	11/5/48	6602A	25
S4-47	25	"	6603A	25
S1-48	25	"	6604A	25

EX "II"

P. 1

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284 LICENSE NO. 727
CLASS
1936-1937 STRIKES

PHO
PHO

CREDITS

VESSEL	FROM	TO	RATING AND WAGE
<i>David</i>	<i>10/1/74</i>	<i>11/2/74</i>	

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NOTE: CHIEF OPERATOR DESIGNATED AS-CH.

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FORM 1120-10

ADDRESS

(2) Difference of 1.000000 - 0.000000 = 1.000000

—

12/20/67	Quadrant 11c only	T-34/1/68
7/9/68	Quadrant 11c only	T-19/3/68
11/29/68	Quadrant 11c only	T-11/1/69
8/18/69	Quadrant 11c only	T-12/16/69
3/10/70	Quadrant 11c only	T-6/29/70
5/6/70	Quadrant 11c only	T-10/1/70

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EX II, P. 3

58

ACCOUNT NO. _____

NAME _____

ADDRESS _____

William Q.

TENNIS

SHEET NO. _____

RATING
CREDIT LIMIT

DATE	ITEMS	FOLIO	DEBITS	DATE	ITEMS	FOLIO	CREDITS
1/5/71	FF-6351	40-71					
	12.437	70-171					
	19436	70-171	Paid 5.00				
6/7/71	Vacation	(244.52)					
6/3/71	1084	75-371					
	1085	75-471					

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EX "II". P 4

SOCIAL SECURITY NR _____
 CERTIFICATE OF SERVICE NR _____
 CERTIFICATE OF EFFICIENCY NR _____

COCK

NAME

Homer, Edward

HOME ADDRESS

PHONE

58

LOCAL ADDRESS

PHONE

DUES PAYABLE		CREDITS		VESSEL
1ST QUARTER	19 47	12- 3/1/47	1457	12-
2ND QUARTER		12- 6/1/47	3090	12-
3RD QUARTER		12- 9/1/47	4953	12-
4TH QUARTER		12- 12/1/47	98	12-
1ST QUARTER	19 48	12- 4/28/48	1679	12-
2ND QUARTER		12- 7/4/48	1728	12-
3RD QUARTER		15- 10/1/48	1415	15-
4TH QUARTER		15- 11/27/48	1766	15-
1ST QUARTER	19 49	15- 1/17/49	3477	15-
2ND QUARTER		15- 4/1/49	4494	15-
3RD QUARTER		15- 11/19/49	8506	15-
4TH QUARTER		15- 12/2/49	9272	15-
ARREARS		12/28/49 withdrawal # 132		CREDITS
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ASSESSMENTS		CREDITS		
S1-47	25 3/1/47	SA 1394A		25
S2-47	25 6/1/47	SP 3059A		25
S3-47	25 9/1/47	0 4910A		25

EX. XII j, P. 1

NAME

Homer, Edward

CERTIFICATE OF SERVICE NR

CERTIFICATE OF EFFICIENCY NR

HOME ADDRESS

320 EASTERN PKWY

HOME

LOCAL ADDRESS

BROOKLYN NY

HOME

DUES PAYABLE

CREDITS

VESSEL

1ST QUARTER

19 44

12 - 3/24/44

6540

12

Cristal

2ND QUARTER

12 - 4/1/44

9316

12

Les Vase

3RD QUARTER

12 - "

9317

12

Amson

4TH QUARTER

12 - 11/16/44

11993

12

Arctic

1ST QUARTER

19 45

12 - 3/6/45

13947

12

Norman

2ND QUARTER

12 - 4/1/45

15333

12

Regina

3RD QUARTER

12 - 6/2/45

17510

12

Shelby

4TH QUARTER

12 - 11/8/45

100A

12

Autumn

1ST QUARTER

19 46

12 - 3/1/46

3035A

12

Coastal

2ND QUARTER

12 - 4/3/46

5241A

12

Enid

3RD QUARTER

12 - 11/6/46

135

12

Panama

4TH QUARTER

12 - 2/1/47

1456

12

Egypt

ARREARS

CREDITS

Over

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ASSESSMENTS

CREDITS

Inst 51. S1-44

25 3/24/44 58 597

25

S2-44

25 7/1/44 25 2193

25

S3-44

25 7/1/44 25 2194

25

S4-44

25 11/16/44 25 4909

25

S1-45

25 5/1/45 25 6875

25

S2-45

25 5/1/45 25 8261

25

S3-45

25 5/2/45 25 10469

25

S4-45

25 11/7/45 25 652

25

S1-46

25 3/1/46 25 3706

25

S2-46

25 5/3/46 25 6268

25

S3-46

25 11/6/46 25 499A

25

S4-46

25 3/1/47 25 1393

25

EX. XII J, P. 2

SHEET NO

JUL 25 11-11-1925
11000-123556

Phone 313-713-6691

ACCOUNT NO

TERMS 55 091-14-0827 NAME

Hamer, Edward 5325 Biddle Ave.

RATING 2 214 322 D2 ADDRESS

12404 WEDDINGTON ST. #112
NORTH HOLLYWOOD, CALIF. 91607

CREDIT LIMIT 11-091-14-0827

DATE	ITEMS	FOLIO	DEBITS	DATE	ITEMS	FOLIO	CREDITS
			APL	3/19/68	Pres Park only T	7/31/68	
			matron	8/29/68	Alaska Spruce only		
			APL	9/24/68	Californian only T	11/29/68	
			Blid-Rothchild	11/19/68	Pres Cleveland only T	11/1/69	
				3/8/68	CAPE GRIG only T		
				3/4/69	Pac. Banker only T	11/7/69	
				5/13/69	Californian only T	5/9/69	
				6/11/69	Pres Roosevelt only T	7/8/69	
			APL	7/8/69	Pres Roosevelt only T	8/22/69	
			Pac Far East	11/10/69	Kona Bear only T	11/2/70	
				3/6/70	Lurline 2nd T	3/30/70	
				5/27/70	Pres Cleveland 3rd T	7/10/70	
			Pac Far East	9/15/70	Washington Bear only T	11/16/70	
				5/27/71	Pres Cleveland only T	7/9/71	
			Pac Far East	7/23/71	Monterey only T	8/13/71	
			PFE	11/17/72	Monterey only T	11/27/72	
3/5/68	PC Fee - 350	70	1/1968				
3/5/68	F.F. 3291	40	1968				
7/30/68	1419	70	2/68				
"	1420	70	3/68				
	F843	50	68				
10/30/68	12887	70	4/68				
1/9/69	3251	70	1/69				
"	4514	40	1969				
4/7/69	13429	70	2/69				
6/2/69	13594	70	3/69				
"	1246	50	69				
9/15/69	14383	70	4/69				
1/5/70	15767	70	1/70				
1/20/70	5727	40	70				
4/1/70	17001	70	4/70				
7/15/70	17595	70	3/70				
11/13/70	18697	70	4/70				
11/70	Vacation	57108					
12/29/70	18561	70	1/71				
"	FF 6015	40	71				
5/19/71	19780	70	2/71				
7/13/71	928	71	13/71				

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EX. XII j, P. 3

NAME		HOMER EDWARD				BK. #		2884		
ADDRESS		5325 Radford Avenue				TEL. #				
		North Hollywood, Calif. 91607								
S.S. #		Z #				LIC. #				
DATE OF ADMITTANCE		Init. 3-8-72								
DATE	DUES STAMP #	QUARTERS				YR.	STRIKE & F.F.	YR.	F. DG. FUND	MISC.
		1	2	3	4					
3/8/72		Initiation Fee				PdsxRct	4912			1,000
12/2/71	191					72		72		
6/10/72	446		X			72				
9/28/72	1080				+	72		7/2/73		74.72
1/10/73	157				+	72		7/2/73		
4/2/73	776		+			73				
7/6/73	1362		+			73		7/15/73		8.22
2/20/74	292			X		73		7/15/73		73.00
10/1/73	4616				X	73				
1-7-74	294		X			74		7/14/74		7/1/74

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EX. XII, P. 4

E. Steinberg
Attorney at Law

63
99 PARK AVENUE, NEW YORK, N. Y. 10016
212-697-5125

October 23, 1974

. Whitman Knapp
S. District Judge
S. Court House
ey Square
York, New York

PELTZMAN -v- CENTRAL GULF
73 CIV. 2911

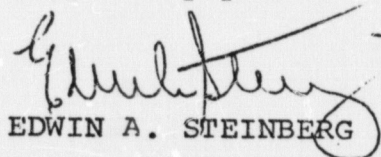
r Judge Knapp:

As requested by you at the close of the hearing
the above matter, Mr. Smith, who appeared as a witness
the defendant, has reviewed the union membership records
ing back to 1969.

I am submitting herewith Mr. Smith's affidavit
ting forth his representation to the effect that all Radio
icers in Group I status have become members of the union.

You will find, annexed to the affidavit, copies
various records pertaining to those individuals who entered
union and paid the required initiation fee over the past
rs. These records include those members who entered during
period of the Viet Nam war and subsequently withdrew from
industry, and are being submitted pursuant to plaintiff's
coena.

Very truly yours,


EDWIN A. STEINBERG

LL
s.
Richard P. Lerner, Esq.
Archie Peltzman ✓
Clerk, U.S. District Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X 24
ARCHIE PELTZMAN,

Plaintiff,

-against-

CENTRAL GULF LINES, INC. (Sued herein as
CENTRAL GULF STEAMSHIP COMPANY),

Defendant.
-----X

AFFIDAVIT

73 CIV. 2911 W.K.

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

BERNARD L. SMITH, being duly sworn, deposes and
says:

1. This Supplemental Affidavit is being submitted
in support of defendant's Motion For Summary Judgment at the
conclusion of a hearing to determine whether or not a triable
issue of facts exists.

2. I am the Secretary/Treasurer of the American
Radio Association, AFL-CIO, and as such am in charge of all
records pertaining to the union membership.

3. Pursuant to the direction of the court I have
reviewed the Group I membership list for the period
January 1, 1969 to-date for the purpose of ascertaining
whether or not at the present time there are any individuals
sailing in Group I status who did not make application for and be-
come a member of the union after completion of 360 days of
service aboard union contract vessels as required by the
National Assignment Rules.

4. These records indicate that each and every
individual during the said time period, except for the
plaintiff herein, has become a member of the union and each
of said individuals have remained in such status, except

65

for those who have (a) retired, (b) become deceased, (c) withdrawn from the industry, or (d) have been expelled for nonpayment of dues.

5. As of the date of this affidavit the present Group I list does not have any individuals who are not members in good standing except for the plaintiff, Archie Peltzman, who has continuously failed and refused to pay the required initiation fee, and who has indicated both to myself and to the court that he has no intention of complying with this lawful request.

6. In addition, I am submitting copies of the records of sixteen (16) individuals who had become members of the union and paid the initiation fee during the Viet Nam war and have since left the industry. These records had been subpoenaed by the plaintiff and are being submitted herewith to be made part of the record. While the Two Thousand (\$2,000) Dollars initiation fee went into effect on April 1, 1967 there are members who paid the initiation fee subsequent to that date but were required to pay only One Thousand (\$1,000) Dollars. Except in the case of Ed Homer, the policy of the union was that where a permit card member had commenced accumulating the Three Hundred Sixty (360) day service prior to April 1, 1967, he would only have to pay the One Thousand (\$1,000) Dollars initiation fee which was in effect at the time he was admitted into Group II.

7. The plaintiff's first assignment upon his return to the industry was on December 20, 1967, so that the Two Thousand (\$2,000) Dollars initiation fee would be applied to him. To further illustrate the application of this rule, I am submitting herewith copies of the

records of five (5) individuals who commenced sailing after April 1, 1967 and thereupon paid the Two Thousand (\$2,000) initiation fee in 1969 or 1970. It should be understood that these five (5) members do not comprise the entire number of Radio Officers falling into this category, but do serve to point up the non-discriminatory manner in which new members were admitted into the union. The application of this policy has been uniformly implemented with respect to each and every applicant for membership since the introduction of the higher initiation fee.

8. In addition, I can state unequivocally that except for the plaintiff, the union security clause has not been invoked against any other individual during the past five (5) years. Indeed, in no case has it been necessary for my office to take positive action by making a demand upon any Radio Officers for the initiation fee. Each and every individual, after becoming eligible for membership, has voluntarily made application therefor and has paid all sums required by the union constitution.

9. It is respectfully submitted that on the basis of all of the documentary evidence and testimony that the plaintiff has not raised any triable issue of fact as to any discriminatory action by either the defendant or the union against him. Accordingly, defendant's Motion for Summary Judgment should be granted.

Bernard L. Smith
BERNARD L. SMITH

Sworn to before me on this
23rd day of October, 1974

William A. Schuman
Notary Public

Notary
No. 30
Qualified in New York
Certificate filed in New York County
Commission Expires March 30, 1975

American Radio Association

270 Madison Avenue • New York, N. Y. 10016 • MUrray Hill 9-5754 • Cable Address: ARADIOCIO NEWYORK

W. R. STEINBERG
President
PHILIP A. O'DOURKE
Vice-President
BERNARD L. SMITH
Sec'y-Treas.

January 13, 1971

NATIONAL COUNCIL
JOSEPH Y. RUBIN
TED BERMAN
HARVEY STRICHARTZ
RALPH BAIRD
FLOYD KEETING

Mr. Archie Peltzman
185 Wortman Avenue
Brooklyn, N. Y. 11207

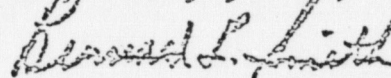
Dear Sir:

Please be advised that pursuant to Section 4 (b) of the Collective Bargaining Agreement entered into between the American Radio Association, AFL-CIO and the Central Gulf Steamship Co., you are required as a condition of employment to become a member in good standing of this Organization.

Accordingly, within thirty (30) days from the date hereof, you are required to tender the sum of Two Thousand Dollars (\$2,000.00), (together with arrears of all dues and fees, if any,) as the initiation fee required for acquiring Union Membership.

If such payment is not made, we shall have no alternative than to request your immediate discharge by the Company.

Very truly yours,



Bernard L. Smith
Secretary-Treasurer

BLS:LB

Via REGISTERED R.R.R.

cc: SS GREEN RIDGE, % Wilmington Shipping Co.
P.O. Box 1809, Wilmington, N.C. 28401 (AIR MAIL, REG.R.R.R.)

cc: Central Gulf S.S.Co., New Orleans, La.

EX. "VIII"

SAN FRANCISCO

BALTIMORE

NEW ORLEANS

SEATTLE

HOUSTON

Exhibit- A703

K28

COPY OF MEMBERSHIP BOOK DATED MAY 26, 1944 AND SHOWING DUES PAYMENTS MAY 10, 1949

29

Book No. 2

(This is to certify that)

By *Archie L. Kellyman*

TRANSFER RECORD

To *From* Date

To *From* Date

To *From* Date

MEMBER'S SIGNATURE

DUES RECORD

1940 1949

ARRA-CIO \$15.00 NO. 4492 DATE 4/1/49

ARRA-CIO \$15.00 NO. 5426 DATE 5/16/49

ARRA-CIO \$15.00 NO. 504 DATE 7/12/48

ARRA-CIO \$15.00 NO. 4492 DATE 4/1/49

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This is to certify that—

Archie L. Kellyman
(NAME OF MEMBER—PRINT CLEARLY)

is a member of District Local No. 2

AMERICAN COMMUNICATIONS ASSOCIATION, C.I.O.
Marine Department

Archie L. Kellyman
(SIGNATURE OF SECRETARY-TREASURER
of local to which member belongs)

Archie L. Kellyman
(MEMBER'S SIGNATURE)
Note—This book is void unless signed
by member and Local Secretary.

LOCAL MEMBERSHIP BOOK No.

Date member first initiated Y, 19. Y Y

Date member reinstated if
membership not continuous 19....

Date and place at which
this book was issued 5/26, 1944

nyc
(CITY)

This book issued by

Archie L. Kellyman
(SIGNATURE OF ISSUING OFFICER OR DELGATE)

This Membership Book issued by the
International Office of the
American Communications Association, C.I.O.
5 Beckman Street, New York 7, N. Y.

James P. Kelly
President

National Agreement with
Steamship Co. 22-18-23, 25-27
39-42, 65-67

June 16, 1969

A 85

given the Radio Officer or Radio-Electronics Officer longest unemployed who is qualified, competent and satisfactory. The Union, in furnishing Radio Officers to the Company, through the facilities of its employment offices, will recognize such preferences and refer Radio Officers or Radio-Electronics Officers to the Company in accordance therewith. The Union agrees to maintain, administer, and operate its employment offices in accordance with law, and assume sole responsibility therefore.

D. Normally no transfer of a continuously employed Radio Officer or Radio-Electronics Officer from one ship to another shall be made, except that a transfer may be permitted upon advance negotiation and written agreement between the Company and the Union on an individual case basis with arbitration in accordance with Section 19(d) and (e) herein if consent to such transfer is unreasonably withheld.

E. When any Radio Officer or Radio-Electronics Officer is rejected for employment or discharged from employment, the Company shall furnish a statement in writing to the Union employment office stating specifically the reason why he is not qualified, competent, or satisfactory to fill a job. Any dispute arising from the discharge or rejection of a Radio officer or Radio-Electronics Officer shall be settled in accordance with Section 19 and the terms of settlement shall include a provision as to the payment of wages from the date of discharge or rejection. This paragraph shall also apply in the case of a refusal by a Company to employ a Radio Officer and/or Radio-Electronics Officer duly assigned in accordance with the provisions of this Agreement.

Wages shall be deemed to include subsistence and room allowance for the period involved.

A Radio Officer or Radio-Electronics Officer who is discharged or rejected for cause shall be given, on the date of discharge or rejection, a written statement advising of the discharge or rejection and an explanation of the reasons for the discharge or rejection. Failure to furnish such written statement or the furnishing of a statement which fails to set forth the facts shall presumptively establish that the Radio Officer and/or Radio-Electronics Officer has been discharged or rejected without just cause. Such statement may be furnished to the Union if the Radio Officer and/or Radio-Electronics Officer is not available.

F. When reporting to the Company to fill vacancies, all Radio Officers or Radio-Electronics Officers shall produce an official assignment clearance from the Union employment office.

It is agreed that any Radio Officer or Radio-Electronics Officer dispatched by the Union Employment Office at the request of and reporting to the Company on the date specified, and is not rejected for just cause, shall be on the payroll starting with the date of dispatch which shall be the same date he is required to report.

G. In the event the Union employment offices are unable to furnish a Radio Officer or Radio-Electronics Officer to fill a vacancy, the provisions of this section shall be waived in such cases and the Company shall be free to fill the vacancy from other sources, provided that the Union Employment office is thereupon notified of such assignment.

H. There shall be no discrimination because of race, creed, color, national origin or sex. Selection of applicants for referral to jobs shall be on a non-discriminatory basis and shall not be based on, or in any way affected

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by, membership or non-membership in the Union; provided, however, that nothing herein shall have any effect on the provisions of Section 4(b) of this Agreement.

I. Appeals. A permanent Appeals Board shall be established consisting of four (4) members, two (2) of whom shall be appointed by the Union and two (2) by the [Company or Ass'n]. Substitutes may be appointed at any time upon notice from either party to the other.

Any Radio Officer or Radio-Electronics Officer who feels that he has been improperly excluded from any one of the priority groups established under this Article may file a written complaint with such Appeals Board. Such complaint shall be addressed to the Secretary of the Appeals Board in care of the Maritime Service Committee, Inc., 11 E'way, N.Y.C., or American Maritime Ass'n, 17 Battery Place, N.Y.C., or Pacific Maritime Ass'n, 16 California Street, San Francisco, Calif., or the respective Independent Company, at its main address. Copy of the complaint shall also be addressed to the Union at its National Offices, 270 Madison Avenue, New York, New York 10016. The Secretary of the Board shall promptly call a meeting of said Appeals Board to act upon said complaint and said Board shall issue its decision within 24 hours after said meeting.

In the event a majority of the Board cannot agree upon a decision, the Board shall select a person who will become a fifth member of the Board until a decision is reached. If the Board cannot agree on the fifth member within 24 hours, the Secretary of Labor will be requested to appoint such fifth member. The fifth member will become the Chairman of the Board during the discussion of the complaint before it. The Board, augmented by this fifth member, shall render a decision as promptly as possible and the Board's decision, or that of

any three (3) members of the Board, shall be binding upon all parties concerned.

Decisions of the Board shall be transmitted in writing to all Union-operated employment offices and to the particular Radio Officer or Radio-Electronics Officer making the appeal.

The Company and the Union shall bear equally the expenses of the fifth member of the Board.

The Appeals Board shall be furnished as promptly as possible with a list of Radio Officers and Radio-Electronics Officers in Group 1 and a list of those in Group 2 who have either shipped or registered after June 15, 1965.

J. The Union shall post a copy of this Section 4 in every Union-operated employment office in places where notices to applicants for employment are customarily posted. The Company shall post a copy of this Section 4 in places where notices to employees and applicants for employment are customarily posted.

K. The parties understand that the provisions of this section are in compliance with federal and state laws. If any part hereof is held to be in conflict therewith, the parties shall negotiate provisions to the extent necessary to insure compliance, and to the extent that such provisions are so held to be in conflict, they shall be deemed inapplicable, but only with respect to the particular state involved, or the Federal Government, as the case may be.

L. The jointly negotiated Assignment Rules, i.e., the Assignment Rules in effect as of June 16, 1969, as approved by the parties hereto, shall be deemed a part of this Agreement. Changes to said Rules shall be incorporated into this Agreement, upon mutual agreement in writing between the parties. The Employment Office Committee provided

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below shall have the responsibility for the maintenance and operation of the Employment Offices as provided herein.

In order to partially defray the costs and expenses of the operation and maintenance of said Employment Offices, the Company shall pay 30¢ per man per day to the Employment Office Committee, and said Committee shall apply the money so paid to the costs and expenses of operating and maintaining the Employment Offices.

A Joint Employment Office Committee comprised of representatives of the various Company groups (MSC, AMA, TSC, PMA) and of the Union, with the Company representatives and the Union representatives having an equal number of votes, shall be established. Such Committee shall have authority to receive the aforementioned contributions and hold them in an independent bank account, to direct such payments as it may deem appropriate to assist in the maintenance of an Employment Office procedure which will be adequate to protect the interests of Radio Officers and Radio-Electronics Officers and to meet the requirements of the Company in this respect. The Committee shall have the authority to appoint an Administrator to carry out its decisions. In the event the Committee deadlocks, the matter at issue shall be resolved through the grievance machinery provided in Section 19.

The establishment of the Joint Employment Committee is hereby confirmed and the Company agrees to continue its contribution to said Plan of 30¢ per man per day on Company payroll (which was part of the monies available under the Agreement for allocation by the Union). The monies so contributed shall be available for the sole and exclusive purpose to defray the cost and expenses of the operation and maintenance of the ARA employment offices from which the Company ob-

22

tains its covered employees in accordance with the provisions of the New Contract.

UNION SECURITY

Section 4. (b) The Company agrees, as a condition of employment, that all employees in the bargaining unit shall become and remain members of the Union thirty (30) days after date of hiring.

(c) SERVICE FEES. Notwithstanding any other provision in the Agreement, it shall be a condition of employment, and/or registration for employment, that all employees and prospective employees covered in this agreement who are not members of the Union, shall be required to pay a service fee of \$70.00 or such other amount as may hereafter be agreed upon, at the time of registration and no more frequently than on a calendar quarterly basis thereafter, payable in advance, in consideration of the services performed by the Union, including the negotiation and enforcement of collective bargaining agreements, the maintenance of employment offices, and other Union activities performed for the general interest of all employees in the bargaining unit. The failure to pay such quarterly service fees shall be sufficient ground for removal from the Union assignment list and shall nullify any prior assignment therefrom.

MEDICAL EXAMINATIONS

Section 5. [Except PMA] In the event that a Radio Officer or Radio-Electronics Officer is denied employment or is discharged for medical reasons and there is a conflict between the Company's medical doctor and the Union's medical examiner, the parties shall refer the matter to the United States Public Health Service on the issue as to whether the Radio Officer and/or Radio-Electronics Officer is fit for duty or not and its decision shall be final.

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Where in the case of such conflict the Radio Officer and/or Radio-Electronics Officer is not eligible for examination by the U.S.P.H.S., the medical service available to the ARA Pension and Welfare Plan shall make the final decision on such issue.

It is clearly understood that no Radio Officer or Radio-Electronics Officer shall be disqualified from employment under this Section who may have a physical defect which has not prevented him from performing his duties in the past.

[Applies to PMA also.] Where a Radio Officer or Radio-Electronics Officer is required to incur unusual transportation expenses in connection with his physical examination because of special needs of the Company, his transportation expenses will be reimbursed.

PMA: Physical Examinations. Radio Officers may be required to undergo a medical examination, such examination to be conducted by a U. S. Public Health physician or a private physician to be mutually agreed to by the parties.

The purpose of the medical examination is to determine that the Radio Officer is free from communicable diseases and able to do the work required of a Radio Officer.

It is clearly understood that no Radio Officer shall be disqualified from employment under this section who may have a physical defect which has not prevented him from performing his duties as a Radio Officer in the past. Should a Radio Officer be designated as unfit for employment by a U. S. Public Health physician, then the Union shall have the right to have the case reviewed by its own medical examiner. Should the Union's medical examiner certify the Radio Officer to be free from communicable disease and able to perform the duties of a Radio Officer, then the Company and the Union will agree upon a suitable outside medical

examiner whose independent judgment will be determining on the facts at issue, and his decision shall be final and binding. The expense of outside consultant will be borne equally by the Company and the Union.

[Applies to PMA also.] Where a Radio Officer or Radio-Electronics Officer is required to incur unusual transportation expenses in connection with his physical examination because of special needs of the Company, his transportation expenses will be reimbursed.

INSURANCE

Section 6. The Union shall take out insurance which will protect the Company, steamship owner, agent, charterer, operator and subsidiary or affiliated companies against any claim, loss, damage, or liability for loss of life or injury occurring to a representative of the Union while on the property or while on board a vessel of any of the above mentioned companies while said property or said vessel is owned, chartered, or leased, and shall furnish satisfactory evidence of such insurance for the benefit of the Company, steamship owner, agent, charterer, operator and subsidiary or affiliated companies.

PASSES

Section 7. The Company shall permit, by the distribution of passes, while such insurance is in effect the authorized representatives of the Union to board the vessels described in Section 1 hereof for the purpose of Union business with Radio Officers or Radio-Electronics Officers employed thereon; provided that the Union representatives shall not violate the provisions of this Agreement or interfere with or retard the work of the vessel, subject to penalty with or revocation of passes. Passes issued to Union representatives shall contain no provision seeking to secure a waiver of any liability the Company may have to such pass holder. In so far as possible the Union's business on board such vessel shall be accomplished by its representative within two hours.

GENERAL

Section 8. The Company accepts the principle of continuous employment for Radio Of-

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Officers and/or Radio Electronics Officers and agrees not to discharge any Radio Officer and/or Radio Electronics Officer when vessels are in port if the vessel is manned by four or more licensed officers, provided it shall be at the option of the Company to discharge such Radio Officer and/or Radio Electronics Officer after the vessel has been in port for a period exceeding twenty-one (21) days; provided further, when a vessel is manned by less than four (4) licensed officers the Company agrees not to discharge any Radio Officer and/or Radio Electronics Officer for a period of ten (10) days, after which time the Company shall have the option of discharge. No Radio Officer and/or Radio Electronics Officer shall be laid off over a Saturday, Sunday, or holiday. It is the intention of this section that when a vessel is manned by licensed officers, regardless of their capacity or designations (e.g., "watchman," etc.), this section shall apply.

Section 9. Subsistence allowance amounting to \$10.50 per day (\$2.00 for breakfast, \$3.00 for lunch, \$5.50 for dinner) and room allowance of \$10.50 per day shall be paid to each Radio Officer or Radio Electronics Officer if board and living quarters are not furnished when in port.

These respective amounts may be adjusted to meet reasonable expenses incurred when substantiated by vouchers. The standard of reasonableness for the respective port will be established by mutual agreement between the Parties.

Room allowance shall be paid when vessel is in port and:

1. When heat is not furnished in cold weather.
2. When hot water is not available in the Radio Officer's or Radio Electronics Officer's quarters for a period of twelve (12) or more consecutive hours.

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3. When the Radio Officer's or Radio Electronics Officer's quarters have been painted and paint is not absolutely dry and other suitable quarters are not furnished aboard.

4. At all times when vessel is on drydock overnight unless lodging with all facilities including heat, light, hot and cold running water and sanitary facilities are provided aboard the vessel.

5. When linen is not furnished upon the Radio Officer's or Radio Electronics Officer's request prior to 6 P.M. on the day he joins the vessel.

6. When vessel is being fumigated and not cleared before 9 P.M.

TRANSPORTATION

Section 10. (a) Radio Officers or Radio Electronics Officers when transported by the Company during the course of their employment, shall be provided with first-class transportation by rail and with subsistence at the rate of ten dollars (\$10.00) per day in addition to their regular monthly wages and expenses incurred in travelling. When travelling at night is involved, a lower berth (PMA: roomette) shall be provided.

(b) In the event that a vessel terminates a voyage in a port other than the original port of engagement, first-class transportation, including berth (PMA: roomette) when necessary, wages and subsistence at \$10.00 a day back to the port of original engagement shall be furnished to each Radio Officer or Radio Electronics Officer. At the request of the individual Radio Officer or Radio Electronics Officer each such officer shall be paid in cash the amount equivalent to the full cost of first-class jet air transportation, including tax, be-

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and insignia, when required, shall be furnished by the Company.

(b) Radio Officers and/or Radio Electronics Officers shall be granted the same privileges with respect to laundering of uniforms as accorded other licensed officers.

ARRIVAL, DEPARTURE AND PORT TIME

Section 16. Arrival. A vessel shall be deemed to have arrived in port thirty (30) minutes after it has anchored or moored at or in the vicinity of a port (or other place of loading or discharging) for the purpose of loading or discharging cargo, ballast and containers (whether empty or not), passengers or mail; undergoing repairs; bunkering alongside a dock; fumigation; layup, awaiting orders or berth. This provision shall not apply to emergency anchorage or mooring solely for reasons of safety.

The term "anchored or moored at or in the vicinity of a port (or other place of loading or discharging)" shall cover any situation where the facts of the situation disclose that the vessel has as its immediate destination, the specific port or other place of loading or discharging.

Section 17. Departure. A vessel shall be deemed to have departed and port time terminated thirty minutes prior to the time when mooring lines are cast off or anchor is aweigh for the purpose of putting to sea directly.

Section 18. Port time shall not apply while awaiting pilot, quarantine, pratique, safe weather or tide; it is agreed, however, that in the case of awaiting pilot, quarantine and pratique, any such exception shall not apply where the delay is because the vessel is awaiting a berth and in any event shall only apply where the delay is caused by the arrival of the vessel during hours that the officials passing

quarantine or pratique are not on duty and only for such limited period.

GRIEVANCE PROCEDURE

Section 19. (a) There shall be no strikes, lockouts, or stoppages of work during the period of this Agreement for any cause; provided, however, that this no-strike clause shall not apply if the Company becomes delinquent in pension, welfare or vacation payments, allotments or wages. There shall be no reduction of manning during the life of this Agreement except by mutual consent of the Parties.

No Radio and/or Radio-Electronics Officer shall be required to work under conditions which may endanger his health or safety, or be required to either work behind a picket line or cross a picket line. The refusal of a Radio Officer and/or Radio-Electronics Officer to perform work in accordance with this paragraph shall not be cause for discharge and any action taken by a Radio Officer and/or Radio-Electronics Officer or the Union in accordance with this paragraph shall not be deemed to constitute a violation of Section 19(a) herein.

(b) Any Radio Officer and/or Radio-Electronics Officer who feels that he has been unjustly treated or discharged, or has been subjected to unfair consideration shall endeavor to have such grievances adjusted according to the following procedure:

1. Presentation of the complaint to the Master of the vessel.
2. Appeal to the shore representative of the Company.
3. A joint hearing before the local representative of the Union and the Company.

In the event a dispute under (b) is not resolved, it shall be referred, upon the request of the Union or the Company, to the Licensed Personnel Board for final decision.

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(c) All disputes, other than those referred to in (a) above, relating to the interpretation or performance of this Agreement which may arise between the Union and the Company shall, upon the request of the Union or the Company, be determined by a Board consisting of two persons appointed by the Union and two persons appointed by the Company. A statement of the dispute shall be made to the Board in writing at a joint meeting which shall be held within forty-eight (48) hours from the time when the services of the Board are invoked (Saturdays, Sundays and holidays excluded), and the other party shall have an opportunity to submit a written reply thereto. The Board shall endeavor to adjust the dispute, failing which, it shall, within seventy-two (72) hours from the time of the beginning of the first meeting of the Board on the matter, submit the dispute to the Arbitrator mutually agreed upon by the Parties.

- (d) 1. The Board shall establish such rules and procedures as it may deem necessary.
2. The decision of a majority of the Board or of the Arbitrator, as the case may be, shall be final and binding upon the parties.
3. Any expense of arbitration and any expense incurred by the parties shall be equally divided between the parties.
4. Unless some other place is mutually agreed upon, the Board shall meet at the ARA Pension and Welfare Plan, 270 Madison Avenue, in New York promptly upon written notice from either the Union or the Company.
5. The decision of the Arbitrator shall be rendered within fifteen (15) days.

(e) is appointed arbitrator by mutual agreement for a six month period, renewable for six month periods by mutual consent of the parties. Either party thirty days prior to the semi-annual anniversary date of his appointment may request his removal in writing by notice to the other party and to the Arbitrator. In such event or in the event the arbitrators should resign or for other reasons be unable to perform his duties, the parties shall request George Meany to designate five names from among which each party shall have the right to strike two. One of the remaining names shall be designated as the Arbitrator by Mr. Meany, to serve unless terminated as provided above. In the event of a request for removal or his resignation, the incumbent arbitrator shall continue to serve until his successor has been appointed.

- (f) 1. The Union or the Companies may, in addition

to the above, have the right, on 24 hours notice, to request the convening of a Licensed Personnel Board to consider a grievance.

2. The Licensed Personnel Board meeting will be held at the ARA Pension and Welfare Plan, 270 Madison Avenue, New York City, N.Y., at 10:00 A.M. on whatever date is fixed unless the parties agree on some other time or place.

3. The Arbitrator will serve as Chairman at any meeting of the Licensed Personnel Board. During the course of the Licensed Personnel Board meeting, the Arbitrator will make no decisions but merely guide the parties as Chairman. If the parties can mutually agree on the disposition of the grievance, it shall be deemed settled.

4. In the absence of such final disposition by mutual agreement before a Licensed Personnel Board, the Arbitrator will then, at the request of either party, have jurisdiction of the case to render a decision as arbitrator. Either party may request a further opportunity to present additional evidence for the purpose of the arbitration proceeding, which request shall be granted or denied in the discretion of the Arbitrator. In the absence of any such request, the Arbitrator is to proceed to an arbitration award without the need of any further hearings.

5. It is the desire and purpose of the parties that all grievances, available for the Licensed Personnel Board or arbitration, be disposed of as promptly and expeditiously as possible.

(g) The parties shall establish a Review Committee consisting of three members designated by the Employers and three members designated by the Union. This Committee shall be available to consider the presentation of requests that, in the interest of the industry, an individual should not be referred for employment by the Union nor be employed by the Company.

Among the reasons to be considered by the Committee are the following:

- (1) Habitual drunkenness;
- (2) illegal possession of a lethal weapon;
- (3) mental illness;
- (4) frequent and unreasonable absence from duty.

Before the Committee acts on any com-

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plaint, the affected individual shall receive written notice of the complaint, an opportunity to appear before the Committee at the time the complaint is heard, and an opportunity to cross-examine witnesses and to present witnesses on his own behalf.

After the conclusion of the hearing, the Review Committee shall act through a majority vote of its members. Said decision shall be final and binding except that the individual adversely affected shall have the right to appeal from a decision of the Review Committee to the contract Arbitrator whose decision shall be final and binding on all parties.

HOURS OF WATCH

Section 20. (a) Passenger Vessels. Hours of watch shall not exceed eight (8) hours in any one day for each Radio Officer or Radio Electronics Officer.

(b) On vessels which maintain continuous radio watch, such watches shall be kept by not less than three Radio Officers and/or Radio Electronics Officers.

Section 21. (a) Freight Vessels. Hours of watch shall not exceed a total of eight (8) hours in any one day. Each Day shall commence at midnight (Ship's Time). Normal watch on each voyage shall begin with the first watch after departure and terminate with the last watch on arrival. Hours of watch shall be fixed by the Master at the commencement of each voyage between 9 A.M. and 9 P.M. and shall not be changed for the duration of the voyage. All work required outside the regular watch hours set by the Master at the commencement of the voyage shall be payable as overtime. Not more than three (3) watch periods shall be prescribed with a minimum of two (2) hours for any watch.

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(b) When three Radio Officers are carried, no special night overtime provision shall apply.

Section 22. (a) Radio Officers and/or Radio Electronics Officers shall perform all duties incident to the operation and maintenance of all radio and/or electronic external communications devices on vessels operated by the Company. All radio and/or electronic external communications devices, described in Sections 2 and 3 including Radiotelephone, Radio Facsimile, Radio Teletype, communications computers or any other such devices, when carried shall be located only in the Radio Room and shall be operated, maintained and repaired only by the Radio Officer and/or Radio Electronics Officer. (Navigation computers and other electronic navigational equipment shall be located in or in the vicinity of the Radio Room including the bridge, but regardless of location shall be maintained and repaired only by the Radio Officer and/or Radio Electronics Officer.)

(b) Radio Officers and/or Radio Electronics Officers shall not be required to perform any duties other than those required for the operation and maintenance and repair of the vessel's licensed radio station and other equipment and devices as outlined in Sections 2, 3 and 22(a) except in an emergency involving the safety of life and/or property. Emergency shall be defined to mean a bonafide distress situation.

Radio Officers and/or Radio Electronics Officers may also be required to maintain and make repairs to the Radio Compass when the services of Radio Compass experts are not available; provided that under such circumstances, they shall not be held responsible for the efficiency or accuracy of the Radio Compass.

Radio-Electronics Officers may be required to maintain and make repairs to other electronic devices, carried, pursuant to the provisions of

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se of all new construction, con-
or overhauling which includes
crew, the Company agrees that
tting of such construction con-
sultant to the Union the pro-
er the quarters to afford the
table period of time to examine
submit its comments or objec-

construction and major reconver-
plete information shall be fur-
Union with respect to all equip-
the jurisdiction of the Union, in-
ers.

Cargo shall not be stowed so as
ance to or exit from the Radio

The Radio Room and Radio Of-
dio Electronics Officer's quarters
ned daily and painted when nec-
n any event painted at least once
s made up and linen and towels
personnel other than the Radio
in the same manner as these func-
performed for the other ship's li-
ers. Linen and towels shall be
least weekly, and in non-air con-
sels in the tropics, twice a week.
is not changed as indicated, each
r or Radio Electronics Officer shall
ated by two hours' premium pay-
each week (or half-week, when ap-

io Officer or Radio Electronics Offi-
also receive an adequate supply of
blankets of good quality and ade-

of the Radio Room shall be cleaned
d daily by personnel other than the
partment, and if such daily cleaning
ng is not performed then the Radio

Officer or Radio Electronics Officer shall be
paid one (1) hour's premium pay for each day
at sea that this work is not performed.

Section 29. In port when repair work, such
as chipping, welding, hammering and/or
pounding, or other noises of a similar nature
are being performed in or around the Radio
Officer's or Radio Electronics Officer's quarters
at night, on ship or on dock (excluding opera-
tions involving cargo or stores), he shall be
entitled to lodging allowance of \$10.50 per
night, provided he has notified the Master or
Officer in charge to arrange other comparable
quarters away from the noise. It is further
understood that a temporary breakdown for
minor repairs of less than three hours shall
not subject the vessel to any lodging penalties.

VACATION PLAN

Section 30. (a) The Agreement and Declara-
tion of Trust establishing the ARA and ARA-
PMA Vacation Plan, is extended through June
15, 1972.

(b) Effective as of June 16, 1965, Radio Of-
ficers shall be eligible for vacation benefits of
5 days of vacation for each thirty (30) days
of dry-cargo ship employment with one or
more of the companies, of which at least one
day must have occurred on or after June 16,
1965, and for which vacation benefits have
not been paid prior to this date: Chief Radio
Officers and Radio Electronics Officers and
First Assistants shall receive 6.25 days for
each 30 days of employment. A pro-rata vaca-
tion benefit shall be given for a period of less
than 30 days provided there is a minimum of
30 days employment. The amount of vaca-
tion benefits shall be pro-rated in accordance with
the average base pay received by the employee
in the period used for computing eligibility. If
employment includes service with Dry-C
and/or Passenger vessels and Tankers, the

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vacation benefits shall be pro-rated. All days of vacation shall be computed as days of work for the purpose of determining vacation benefits, for days of employment on or before June 15, 1969.

(c) (1) for all covered employment on and after June 16, 1969, the vacation benefit shall be 9 days for each 30 days of said employment;

(2) for all covered employment on and after June 16, 1970, the vacation benefit shall be 9½ days for each 30 days of said employment;

(3) for all covered employment on and after June 16, 1971, the vacation benefit shall be 10 days for each 30 days of said employment.

With respect to employment on and after June 16, 1969, days of vacation accrued since the aforesaid schedule includes such additional credits.

(4) Each Radio Officer or Radio Electronics Officer represented by the Union employed on the container vessels of the Company, in addition to all other vacation benefits provided in this Agreement shall be entitled to four additional days of vacation for each thirty days of continuous employment on said vessels, plus pro-rata for additional such continuous employment beyond thirty days. Such additional days of vacation shall not be computed as days of work for purpose of computing ensuing vacation benefits.

(d) Radio Officers and Radio Electronics Officers on passenger ships shall have the right after six (6) months of continuous employment to have a special leave of absence granted of one trip off with no pay. Such special leave shall not be considered as a break in service for any purpose.

(e) The Companies shall contribute to the Plan an amount sufficient to pay the cost of benefits and administration of the Plan.

PMA: The following provisions are applicable to the HAWAIIAN FISHERMAN and HAWAIIAN CITIZEN only while they are operating on their present port time schedules.

Because of the present port time operating schedules of these two vessels, Radio Officers or Radio Electronic Officers employed on these two ships shall be covered by the following special provisions:

(1) During his period of continuous employment on one of these ships each Radio Officer or Radio Electronic Officer shall accrue four (4) additional days' wages for each thirty (30) days of his employment; plus a pro-rata for additional employment beyond thirty (30) days. Additional days of wages accrued, when in sufficient number to warrant a voyage off, may be used or may be accumulated until the next regular vacation of the Radio Officer or Radio Electronic Officer as provided in this section. At that time, such total or the remaining additional days as may have been accrued shall be considered as vacation, and paid to the employee as such.

(2) During the period of employment normal vacation benefits shall accrue but if time off is taken during the period of employment under (1) above such time shall not be counted as time worked for vacation benefit purposes.

(3) Employees who take a voyage off during their period of employment shall be eligible to return to the vessel after their voyage off and complete their normal period of employment.

(4) Voyage off time, as provided in subsection (1) hereof shall not be counted as time worked for vacation benefit purposes, but shall be counted as qualifying time for pension eligibility.

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1. Names of Radio Officers who accepted assignments during the week shall be moved from the list to the Employed column at the same number.

2. Names of Radio Officers registered on the list as Active or Inactive who are pending assignments shall be moved from the list to the Active or the Inactive to the Employed column at the same number.

3. Names of Radio Officers registered on the list as Employed who have been granted leave during the week for registration as Active or Inactive shall be moved from the Employed to the Active or Inactive column at the same number.

4. After the operations described in (1), (2), and (3) hereof have been completed, the names of Radio Officers in the Employed column of the list shall be moved to positions lower in shipping priority than their positions of the preceding week at a "rate of descent" determined by the National Council.

5. After operation described in (4) hereof has been completed, the names of Radio Officers registered on the list as Active or Inactive shall be moved to position of their employment seniority. This shall be accomplished by moving these names (fill such numbered positions) as have been left open by the movement described in (4) hereof.

6. The names of Radio Officers in the Employed column who shall, through operations (4) and (5) hereof, be in higher numbered positions than any held by Radio Officers registered as Active or Inactive, shall be removed from the list. This rule may be modified by the National Council to limit the highest actual numbered position which may be occupied by a Radio Officer registered on the list as Employed.

7. The names of Radio Officers who have registered as Active or Inactive during the week, and who were not previously registered on the list during such week, shall be added to the Active or Inactive columns at the end of the list in numerical order according to the date and hour each Radio Officer registered. This provision shall not limit the right or prevent any Radio Officer who has registered as Active during the week prior to a compilation of the list and has not as yet been physically added to the list from being offered and accepting an assignment. If such Radio Officer shall have accepted an assignment before his name shall have been physically added to the list, his name shall not be added during the next compilation of the list.

STANDBY LIST

Rule 9. (a) The Union Employment Office shall maintain a list of Radio Officers who have temporarily left their assignment for reasons of sickness, vacation, layoff or for other valid reasons. This list shall be known as the Standby List.

(b) Any Radio Officer, so designating to a Branch Employment Office in writing, may be registered on the Standby List.

(c) Radio Officers registered on the Standby List shall not be eligible for assignment to any job other than the job which they are standing by subject to Rule 7 (7).

(d) All Radio Officers registering on the Standby List shall be designated as Employed and shall be subject to rules governing Employed Radio Officers.

(e) The Standby List shall be maintained separate and distinct from the Assignment List from which Radio Officers are selected for assignment. The Standby List shall be posted in the Branch

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Employment Offices and shall contain the name of the Radio Officer, the job for which he is standing by, and the date he left the assignment.

(f) A Radio Officer registered on the Standby List for a period longer than three months or one round trip when a voyage exceeds three months shall request an extension of privilege of continuing to be registered as standby in writing addressed to a Branch Employment Office. Should a relief not be available for the Radio Officer to continue registered as Standby, the Radio Officer shall promptly return to his job or be considered as permanently leaving his assignment and shall register for Active or Inactive on the Assignment List. Radio Officers standing by vessels on "temporary laid-up" status shall not be required to renew Standby clearance in accordance with this section. Clearances issued to Radio Officers standing by vessels in this category shall so indicate.

(g) A Radio Officer employed on a scheduled voyage vessel who shall take leave from his assignment in accordance with this section shall return to his assignment at the Port where he left the vessel.

(h) A Radio Officer employed on other than a scheduled voyage vessel who shall take leave from his assignment, shall, if practicable, return to his assignment at the port where he left the vessel. If he shall return to the vessel at a port other than where he was relieved, he shall, if required, pay such transportation as is necessary to return his relief to the port of original assignment.

ALL RADIO OFFICERS TO HOLD CLEARANCES

Rule 10. (a) No Radio Officer shall accept any employment without official clearance from a

Branch Employment Office. The nearest Branch Employment Office of the Union shall be a central clearing bureau through which any of all arrangements in connection with shipping a ship under contract to the Union shall be made. The Radio Officer shall notify the Branch Employment Office immediately when any type of employment is contemplated or secured and shall obtain a clearance for such employment. The requirement for obtaining clearance to any employment shall apply whether such employment is Union or non-Union, afloat or ashore, where a radio telegraph license is required as a condition of employment.

(b) All Radio Officers shall possess a valid Official Assignment Clearance showing their employment status at all times. No gaps between categories of Active, Inactive, or employed shall be permitted.

(c) Any Radio Officer who shall leave a vessel in any Port shall immediately apply to the nearest Branch Employment Office of the ARA to obtain an official clearance.

(d) No Radio Officer who is in arrears in dues and/or regular assessments or Employment Office fees as indicated in his membership book or records, shall be issued any clearance by Branch Employment Office, except that a Radio Officer registered on the Assignment List as A may be issued a clearance to an assignment amount in arrears shall not exceed the amount specifically provided by any decision of the National Council for unemployed Radio Officers. Any Radio Officer who shall have been issued clearance as provided in this section shall possess upon completion of thirty days employment or one voyage.

(e) The Branch Employment Office shall forward to the office of the Secretary-Treasurer

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3. The official voting period in a special election shall be sixty (60) days, and all provisions of the Constitution which shall govern regular quadrennial elections shall apply to the special election except that time limits and specific dates shall be waived or modified for a special election. However, at least fifteen (15) days notice prior to the special election shall be given to members.

Section 10. Any challenge to the conduct of the election shall be made not later than thirty (30) days from the date of the count of the ballots; such challenge must be in writing and signed by the complaining member or members, and shall be sent by certified or registered mail to the National Council which shall hold hearings thereon and make its decision within thirty (30) days after the conclusion of the hearings. The decision of the National Council on challenges to the conduct of the election may be appealed to the following National Convention but shall be deemed final pending the appeal and shall remain in effect unless reversed by the National Convention.

Article VII REFERENDUM

Section 1. (a) A proposition may be submitted to referendum vote of the membership by:

1. The National Convention.
2. 2/3 vote of the National Council.

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3. A petition endorsing a proposition signed by fifty (50) members in good standing submitted to the Secretary-Treasurer. Once in every six (6) months, beginning October, 1949, the Secretary-Treasurer shall submit all such propositions to all Branch offices for concurrence or rejection by members voting at two consecutive membership meetings. Those propositions approved by 2/3 vote of all those members voting at such meetings shall be submitted to referendum within 30 days unless otherwise provided by the petition.

(b) All petitions shall indicate whether the petitioner desires an immediate referendum, or whether the proposition shall be submitted during a regular quadrennial election.

(c) All referenda submitted to the membership in conjunction with a regular election shall be conducted in accordance with the procedure outlined for such election. All other referenda may be conducted in accordance with the procedure outlined for special elections.

Article VIII TRIAL OF OFFICERS

Section 1. (a) Any Officer may be brought to trial on charges signed by one hundred (100) members in good standing over a period of sixty (60) days. The signed petition containing the charges shall be submitted to the Secretary-Treasurer who shall forward a copy

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to each member of the National Council for study. Should the charges be against the Secretary-Treasurer, the petition shall be submitted to the President.

(b) The National Council shall approve or disapprove the charges and shall submit their findings to one membership meeting at each Branch office for approval. If the membership rejects the charges, the action of the membership shall be final. If the charges are accepted by the membership, the officer charged shall then be suspended and removed from office.

(c) The National Council shall then elect three (3) members of the Council within fifteen (15) days to sit as a Trial Committee. Neither the accused officers nor any signer of the petition upon which the accused is being brought to trial shall be a member of the Trial Committee.

(d) The Trial Committee shall immediately notify the accused officer in writing of the date of trial and shall meet within fifteen (15) days after election to hold such trial.

(e) Within fifteen (15) days after the Trial Committee has been convened, the Committee shall submit its findings and recommendations to one (1) membership meeting at each Branch office. A majority of members voting at such Branch meetings shall determine whether the Trial Committee recommendations shall be submitted to thirty (30) day referendum. Should the membership vote against holding a referendum, the Trial Committee recommendations shall be final and binding; provided, however, that an appeal may be made to the next National Convention which shall have authority to review the case.

(f) If the charges against the Officer are dismissed and rejected by the membership, he shall be reinstated to his original office and all wages due him during his suspension shall be paid.

(g) An Officer removed from office and not expelled shall not be permitted to hold office in or be employed by the Union for a period of five (5) years after date of removal from office.

(h) The National Convention shall have the power to bring to trial and remove from office any officer of the Union or subdivision thereof. The charges shall be submitted to the President or Secretary-Treasurer in writing. No Officer shall be brought to trial unless he shall have been notified by registered mail of such charges at least three (3) weeks prior to the Convention.

Article IX

TRIAL OF MEMBERS

Section 1. (a) A charge against any member for violation of the Constitution and laws of the Union must be submitted in writing to the Council member in charge of a Branch office at the Branch where such violation took place.

(b) The Council member in charge of a Branch shall immediately send the member charged by registered mail a copy of the specific written charges against him.

(c) At the next membership meeting held at the Branch office, the membership shall ac-

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cept or reject the charges. If the charges are accepted by 2/3 vote, the meeting shall elect a Trial Committee of not less than three (3) members.

(d) The Trial Committee so elected shall set a date for trial within ten (10) days and shall immediately notify the accused member that the trial will be held.

(e) Within ten (10) days after the Trial Committee has convened it shall make known its findings and recommendation in writing to the accused. The recommendations of the Trial Committee shall be final; provided however that the accused member may file an appeal with the Trial Committee or the official in charge of the port within ten (10) days. Should such an appeal be filed, the Trial Committee findings and recommendations shall be forwarded to the Secretary-Treasurer who shall submit copies to all Branch offices where they shall be brought to the attention of the next Branch membership meeting. A majority of members voting at such Branch meetings shall determine whether the recommendations of the Trial Committee shall be accepted or rejected, which shall be reported to the Secretary-Treasurer within five (5) days after such Branch membership action. The Secretary-Treasurer shall then notify the accused in writing within the next five (5) days of such Branch membership action. Such decision of the membership shall be final, provided further however, that a member may appeal to the next Convention.

Section 2. Any member of the National Council shall have the right to prefer charges against any member. Such charges shall be submitted in writing to the Secretary-Treasurer who shall institute the procedure outlined in Section 1 at the Headquarters Branch office.

Section 3. No member who is at sea shall be brought to trial until he shall have returned to the United States.

Section 4. Any member whose license as a Radio Officer has been suspended or revoked by the U. S. Coast Guard or by any other Government Agency; or who has been denied by the U. S. Coast Guard or by any other Government Agency, a license or document necessary for employment as a Radio Officer; or who has been denied permission by the U. S. Coast Guard or by any other Government Agency, to ship by reason of his being a poor National Security risk; or who has been found guilty of a felony by a Court of Competent Jurisdiction, may be suspended and/or expelled from membership after due investigation and approval by the National Council subject to further approval by a majority of the members voting at Branch membership meetings held within fourteen (14) days after receipt of the National Council's decision. The decision of the membership shall be final; provided however, that an appeal may be taken to the next Convention.

Article X NEGOTIATIONS

Section 1. (a) The President shall be in charge of all negotiations. He may delegate the handling of such negotiations to any member of the National Council, or he may call upon any such member to assist in such negotiations.

(b) The membership at the Branch office where such negotiations take place shall have

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WITHDRAWAL

Section 2. (a) A member in good standing who shall accept employment outside the jurisdiction of this Union, or who shall retire, or be promoted to a position which shall make him ineligible to membership, shall be entitled to a withdrawal card from the Union, which shall be valid for three (3) years. A withdrawal member who shall have held a withdrawal card for a period of less than three (3) years and who shall apply for reinstatement within such period shall be required to pay, as a reinstatement fee, all dues and other financial obligations which he would have paid during such period, before such member shall be reinstated to membership in good standing. All those who have been on withdrawal for three (3) years or longer, shall re-enter the Union, subject to Section 3 of Article XII (as a new member) and he shall be required to meet all obligations set forth therein. All reinstatements shall be subject to approval of the National Council and a Branch membership meeting. All reinstated members shall be subject to such employment rules as may be promulgated by the Union.

(b) Anyone working on his license aboard a United States merchant marine vessel, or an ARA contract vessel as Radio Officer, whether such job be Union or non-Union, MSTTS or civilian, shall not be eligible for withdrawal and shall not be issued a withdrawal card.

MEMBERSHIP ELIGIBILITY

Section 3. (a) Any person who shall seek membership in this Union shall be required to

file with the Secretary-Treasurer an application for membership.

(b) An applicant for membership as a Marine Radio Officer shall be on probation, and shall not be accepted as a full book member until having worked under union clearance for a period of twelve (12) months. Such applicant for membership shall be issued a permit card upon assignment and shall pay one quarter's dues at that time, and shall pay all dues and assessments for that period of time actually employed under Union clearance until accepted as a full book member.

(c) The initiation fee for applicants for membership in the American Radio Association shall be two thousand dollars (\$2000). All initiation fees and dues must be fully paid before membership is granted.

(d) The National Council may waive the provisions of this section during an organizing drive.

(e) Before an applicant for membership shall be accepted into the Union he shall be first approved by the National Council, and shall take the following oath: "I solemnly swear to be true and loyal to the Union and the labor cause, and to put into practice the principles laid down in the Constitution and to obey all rules the Union may adopt."

DUES

Section 4. (a) The number of members registered on the Union rolls shall be computed at the end of each calendar quarter. Should the number of members registered on the Union's rolls be not more than 1050 nor less than 1000

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then the dues rate beginning with such quarter shall be fifty (\$50) dollars per quarter, plus the amount of dues required in accordance with (b) below. Should the number of members registered on the Union's rolls be not more than 999 nor less than 950, then the dues rate beginning with such quarter shall be increased five (\$5) dollars per quarter, plus the amount of dues required in accordance with (b) below. Similarly, for each subsequent decrease of 50 members, the dues shall be increased an additional five (\$5) dollars per quarter, for each 50 man-unit decrease, plus the amount of dues required in accordance with (b) below.

(b) Effective July 1, 1970, in addition to the amount required in accordance with (a) above, each member shall pay an amount equal to 6% of the gross amount of each vacation benefit payment he shall receive from any ARA Vacation Plan, or from the ARA, for work performed on or after June 16, 1970, as dues to the Union. Such payment shall be due and payable on the date he receives said vacation benefit, and may be paid by authorizing the deduction of each such 6% by the Plan for payment to the Union, or by direct payment by the member to the Union no later than the first day of the quarter next following the vacation benefit payment.

CONVENTION FUND

- Section 5. Eight dollars per year per member shall be taken from the General Fund and placed in the Convention Fund. This is to be done at the conclusion of the third quarter of each year.

-33-

STRIKE & FIGHTING FUND

Section 6. An annual Strike and Fighting Fund payment of Forty (40) dollars per year shall be payable by each member during the first quarter of each year beginning with the year 1957.

ASSESSMENTS

Section 7. No assessments shall be levied without approval of such assessments by a majority of the members who shall cast votes in a National referendum.

MISCELLANEOUS

Article XIII

Section 1. STAMP SYSTEM: The National Union and its subdivisions shall use the "stamp system" for the collection of all funds which shall be derived from such initiation fees, dues and assessments as shall be levied by the general membership.

Section 2. CONTRACTS AND LIABILITIES: No official, member, or committee shall make any contract which shall involve a financial obligation, or incur any liability in the name of or in behalf of the National Union, unless written permission to make such contract, or to incur such liability first shall have been obtained by majority vote of the National Council.

Section 3. STRIKE: The National Council shall prepare and coordinate all rules and regulations for the conduct of any strike. All strike committees shall be guided by such rules and regulations.

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vacation benefits shall be pro-rated. If days of vacation shall be computed as days of work for the purpose of determining vacation benefits, for days of employment on or before June 13, 1969.

(c) (1) for all covered employment on and after June 16, 1969, the vacation benefit shall be 9 days for each 30 days of said employment;

(2) for all covered employment on and after June 16, 1970, the vacation benefit shall be 9½ days for each 30 days of said employment;

(3) for all covered employment on and after June 16, 1971, the vacation benefit shall be 10 days for each 30 days of said employment.

With respect to employment on and after June 16, 1969, days of vacation accrued since the aforesaid schedule includes such additional credits.

(4) Each Radio Officer or Radio Electronics Officer represented by the Union employed on the container vessels of the Company, in addition to all other vacation benefits provided in this Agreement shall be entitled to four additional days of vacation for each thirty days of continuous employment on said vessels, plus a pro-rata for additional such continuous employment beyond thirty days. Such additional days of vacation shall not be computed as days of work for purpose of computing ensuing vacation.

(f) Unless and until the Union notifies the Companies that there is no shortage of RO or REO, RO and/or REO when eligible for vacations may accept their vacation benefits and if they so choose and subject to the written consent of the Union to continue in covered employment aboard a vessel or to return to covered employment during the period of their vacation or any part thereof.

PMA: The following provisions are applicable to the HAWAIIAN FISHERMAN and HAWAIIAN CITIZEN only while they are operating on their present port time schedules.

Because of the present port time operating schedules of these two vessels, Radio Officers or Radio Electronics Officers employed on these two ships shall be covered by the following special provisions:

(1) During his period of continuous employment on one of these ships each Radio Officer or Radio Electronics Officer shall accrue four (4) additional days' wages for each thirty (30) days of his employment, plus a pro-rata for days of his employment beyond thirty (30) days. Additional days of wages accrued, when in sufficient number to warrant a voyage off, may be used or may be accumulated until the next regular vacation of the Radio Officer or Radio Electronics Officer as provided in this section. At that time, such total or the remaining additional days as may have been accrued shall be considered as vacation, and paid to the employee as such.

(2) During the period of employment normal vacation benefits shall accrue but if time off is taken during the period of employment under (1) above such time shall not be counted as time worked for vacation benefit purposes.

Employees who take a voyage off during their period of employment shall be eligible to return to the vessel after their voyage and complete their normal period of employment.

Voyage off time, as provided in subsection 1) hereof shall not be counted as time worked for vacation benefit purposes, but shall be counted as qualifying time for pension eligibility.

APPENDIX II.

87.
EMPLOYMENT OF U. S. FLAG OCEANGOING MERCHANT FLEETS
DECEMBER 31, 1971 (Tonnage in Thousands)

76

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Status and Area of Employment	VESSEL TYPE											
	Total			Combination Pass./Cargo			Freighters		Tanker			
	Number	Gross Tons	Dead- weight Tons	Number	Gross Tons	Dead- weight Tons	Number	Gross Tons	Dead- weight Tons	Number	Gross Tons	Dead- weight Tons
GRAND TOTAL	1,372	14,348	19,636	166	1,529	1,075	915	8,096	10,511	291	4,723	8,050
Active Vessels	633	8,418	12,429	11	132	99	390	4,298	5,473	232	3,988	6,857
Foreign Trade	271	3,352	4,395	10	117	93	245	2,866	3,628	16	369	674
Nearby Foreign	10	221	389	—	—	—	2	19	25	8	202	364
Great Lakes-Seaway Foreign	—	—	—	—	—	93	243	2,847	3,603	8	167	310
Overseas Foreign	261	3,131	4,006	10	117	—	—	—	—	5	152	263
Foreign to Foreign	5	152	263	—	—	—	—	—	753	178	2,906	4,974
Domestic Trade	236	3,550	5,733	1	15	6	57	629	85	133	2,205	3,784
Coastwise	139	2,257	3,869	—	—	—	6	52	189	8	127	227
Intercoastal	20	267	416	—	—	—	12	138	479	37	571	963
Noncontiguous	77	1,024	1,448	1	15	6	39	438	1,092	33	561	946
Other U.S. Agency Operations	121	1,364	2,038	—	—	—	88	803	916	30	546	926
MSC Charter	100	1,219	1,843	—	—	—	18	130	176	3	15	20
Other (Custody) etc.	21	145	196	—	—	—	70	673	5,038	59	736	1,193
Inactive Vessels	739	5,933	7,206	155	1,398	975	525	3,799	415	15	296	499
Temporarily Inactive	51	661	934	2	33	20	34	332	415	15	296	499
Merchant Types	51	661	934	2	33	20	34	332	—	—	—	—
Military Types	—	—	—	—	—	—	—	—	—	15	201	328
Laid-up (Privately-Owned)	53	576	753	7	132	65	31	243	4,263	29	238	366
National Defense Reserve Fleet ¹	635	4,695	5,518	146	1,233	890	460	3,224	3,532	8	81	129
Merchant Types	357	2,555	3,660	—	—	—	349	2,474	731	21	157	237
Military Types	278	2,140	1,858	146	1,233	890	111	750	—	—	—	—

¹ Includes vessels in custody of the reserve fleet pending delivery and the Great Lakes-Seaway Foreign Trade types, 21 of which are

¹ The National Defense Reserve Fleet includes 61 ships sold, but remaining in custody of the reserve fleet pending delivery, and 120 ships of various types, 21 of which are being sold, and 38 which are currently in the National Defense Reserve Fleet.

² Figures for the National Defense Reserve Fleet are based on the detailed figures have been rounded to the nearest whole number.

³ The National Defense Reserve Fleet is divided into three categories: (1) Atlantic Fleet, (2) Pacific Fleet, and (3) Gulf of Mexico Fleet.

⁴ The National Defense Reserve Fleet is divided into three categories: (1) Atlantic Fleet, (2) Pacific Fleet, and (3) Gulf of Mexico Fleet.

ESK

Wm
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MARGOLIS AND McTERNAN
ATTORNEYS AT LAW
3175 WEST SIXTH STREET
LOS ANGELES, CALIFORNIA 90005
DUNKIRK 5-6111

BEN MARGOLIS
JOHN T. McTERNAN
PAUL M. HITTELMAN
JOL SCOPE
WILLIAM G. SMITH
NEIL M. HARRING
HERBERT MARCH
BRUCE POLICHAR
RAYMOND UTIN
OF COUNSEL:
ROBERT D. KATZ
WILLIAM B. MURRISH

HARBOR OFFICE
IN ASSOCIATION WITH
GEORGE E. SHIPLEY
350 AVALON BLVD.
WILMINGTON
775-3307
TERMINAL 5-6644

March 14, 1968

Mr. Bernard L. Smith, Secretary-Treasurer
American Radio Association, AFL-CIO
270 Madison Avenue
New York, New York 10016

Re: Application of Edward Homer for Reinstatement

Dear Mr. Smith:

I represented Mr. Homer in connection with his securing of a license from the U.S. Coast Guard, which license he has now secured. He has asked me to help him further in dealing with the complications of getting reinstatement to the union. This is a follow-up on his letters of January 31, February 23 and March 7, 1968, addressed to you, as well as his conversations with you. I would appreciate it very much if you would clarify for Mr. Homer the following questions:

1. Is there anything further that he needs to do such as a proffer of payment in order to have his application for reinstatement based on his valid existing withdrawal card acted upon?

2. Has his application been acted upon and, if so, when was the action taken, by whom and what was it; also does he need to do anything further to completely effectuate his reinstatement?

3. If for any reason he has been or is being denied reinstatement, I would appreciate your advising me as to when any action has been taken and the reason therefor as well as anything that he can do to overcome any obstacles to such reinstatement.

I seek this advice in order to assist him in doing whatever is necessary to meet all union requirements and to secure the reinstatement which it seems to me he is entitled to have.

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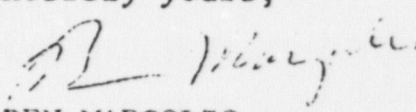
Mr. Bernard L. Smith

(2)

29
March 14, 1968

An early reply will be very much appreciated.

Sincerely yours,


BEN MARGOLIS
for
MARGOLIS and McTERNAN

BM:rlp

cc: Mr. Edward Homer

opeiu #30
afl-cio

FSB
3-2

OFFICIAL ASSIGNMENT

AMERICAN RADIO ASSOCIATION, AFL-CIO

Date 4-15-69 Time 19:14
 Port of N.Y. Book No. P.C.M.
 Name Archie Peltzman
 Assigned to N.Y. Grp 2 Active From SS Rutgers Victory
 S.S. Company Lykes Line Rating only
 Master Beach List No. 1 Group: 1
 to 1969 and Funds.

Archie Peltzman
 Signed—Radio Officer

DUPLICATE
 (To be Forwarded
 to Secretary-Treasurer)

OFFICIAL ASSIGNMENT

AMERICAN RADIO ASSOCIATION, AFL-CIO

Date 10-30-68 Time 15:20
 Port of N.Y. Book No. P.C.M.
 Name Archie Peltzman
 Assigned to N.Y. Grp 2 Active From SS Anadarko Vic
 S.S. Company Lykes Line Rating only
 Perm. ☐ Temp. ☒ Master Beach List No. 150:00 Spec Asst Group: TWO
 Dues Paid through 11th Oct. F.F.68 and

Remarks

PO Malley Signed—ARA Official
Archie Peltzman Signed—Radio Officer

OFFICIAL ASSIGNMENT

AMERICAN RADIO ASSOCIATION, AFL-CIO

Date 11-20-66 Time 09:30
 Port of N.Y. Book No. P.C.M.
 Name A. Peltzman
 Assigned to SS Anadarko Victory From N.Y. Active Grp
 S.S. Company Lykes Bros Rating only
 Master Beach List No. P.C.M. Group: TWO

to Morris Red Off. 62 W 11th St then to
 for processing to ship at Norfolk Va.
 Shipping Co. 622-2583 or 621-3021
 Nov. 19th, 1968.

Archie Peltzman
 Signed—Radio Officer

DUPLICATE
 (To be Forwarded
 to Secretary-Treasurer)

OFFICIAL ASSIGNMENT

AMERICAN RADIO ASSOCIATION, AFL-CIO

Date 7-8-68 Time 15:20
 Port of N.Y. Book No. P.C.M.
 Name A. Peltzman
 Assigned to SS Anadarko Victory From N.Y. Active Grp
 S.S. Company Lykes Bros Rating only
 Perm. ☐ Temp. ☒ Master Beach List No. P.C.M. Group: Two
 Dues Paid through

Remarks

Report to Mr. Forenza U.S. Lines W 22nd St. Pl.
 62 North River for processing to ship at shipyard
 Charleston S.C. Agt Carolina Shipping Co Charleston
 Tele No. RA-3-6184.
PO Malley Signed—ARA Official
Archie Peltzman Signed—Radio Officer

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(To be Forwarded
to Secretary-Treasurer)

OFFICIAL ASSIGNMENT

AMERICAN RADIO ASSOCIATION, AFL-CIO

Port of N.Y. Date 12-16-69 Time 13:
Name Archie Poltman Book No. _____
Assigned to N.Y. Inactive From SS Overseas U
Maritime Overseas Rating only
S.S. Company _____
Perm. ☐ Temp. ☐ Master Beach List No. _____ Group: _____
Dues Paid through 4th Qt. 69 and Funds

Remarks _____

P. O. Malley
Signed-ARA Official

Archie Poltman
Signed-Radio Of

DUPLICATE
(To be Forwarded
to Secretary-Treasurer)

OFFICIAL ASSIGNMENT

AMERICAN RADIO ASSOCIATION, AFL-CIO

Port of N.Y. Date 8-18-69 Time 12:30
Name A. Poltman Book No. _____
Assigned to SS Overseas Ulla From N.Y. Active
Maritime Overseas Rating only
S.S. Company _____
Perm. ☐ Temp. ☒ Master Beach List No. Bts Group: On
Dues Paid through _____

Remarks Report to Company. Mr. Dalton. 511-5th Ave
for processing to ship in Canal Zone. Medical rlf f
R/O E. Connolly.

P. O. Malley
Signed-ARA Official

A. Poltman
Signed-Radio Of

DUPLICATE
(To be Forwarded
to Secretary-Treasurer)

OFFICIAL ASSIGNMENT

AMERICAN RADIO ASSOCIATION, AFL-CIO

Port of N.Y. Date 8-13-69 Time 12:20
Name A. Poltman Book No. _____
Assigned to N.Y. Active Grp 1 From N.Y. Active Gr
S.S. Company _____ Rating _____
Perm. ☐ Temp. ☐ Master Beach List No. _____ Group: One
Dues Paid through _____

Remarks _____

P. O. Malley
Signed-ARA Official

Archie Poltman
Signed-Radio Of

DUPLICATE
(To be Forwarded
to Secretary-Treasurer)

OFFICIAL ASSIGNMENT

AMERICAN RADIO ASSOCIATION, AFL-CIO

Port of N.Y. Date 8-15-69 Time 16:15
Name A. Poltman Book No. P.
Assigned to N.Y. Active Grp 2 From N.Y. Inactive
S.S. Company _____ Rating _____
Perm. ☐ Temp. ☐ Master Beach List No. _____ Group: Tue
Dues Paid through _____

Remarks _____

P. O. Malley
Signed-ARA Official

Mailed
Signed-Radio Of

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92
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(To be Forwarded
to Secretary-Treasurer)

OFFICIAL ASSIGNMENT
AMERICAN RADIO ASSOCIATION, C.I.O.

Port of Baltimore Date Dec. 10th, 1951
Name Raymond R. Spoonmore Book No. 2013 ACA
Assigned to Deferred list, BALTO. From Reinstatement
S.S. Company _____ Rating _____
Perm. ☐ Temp. ☐ Master Beach List No. off list

Transferred to port of _____
Remarks Reinstated by ARA Balto. on Dec. 10th, 1951 from
suspension for non-payment of dues. Must pay \$180.00 re-
instatement fee plus dues for the qt. assigned to a vessel.

[Signature]
Signed—ARA Official

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[Signature]
Signed—Radio Officer

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EST. No. 3442
(Assured Gen BK) 2416

Lic. T2-4-60

93

more, Raymond R.

RR # 6, Box # 145

Indianapolis, Indiana

Tele. 5-6776

Horton, Ind.

67-18-3

DATE	ITEMS	Folio	CREDITS
9/17/42	James Richards	9/11/42	
12/1/43	Ralphdyard	10/20/43	
5/17/44	Penn. Woman	4/29/44	
9/13/44	James D. Trash	ch. 8/7/44	
1/1/45	Wm. Hume	only 12/17/44	
11/1/45	Roger Sherman	2 9/28/45	Mormer
9/29/46	Half Knot	only 4/8/46	deb.
12/13/51	Jacob C. Harper	only 4/5/47	U.S. Navy
4-1-53	John Morton	only	D.W.P.
12/2/53 - 3/23/54	Virginia	only 6/28/55	Shut Bull
12/2/53	Helen Stinson	only 11/15/57	TJ Stinson
3/25/57	Jurcho Vic	only 7/2/57	Thomas
7/24/57	L. Luchinbach	11/13/58	Luchinbach
11/13/57	Joseph Sperling	only	Cargo Ship
2/28/59	Amoco Railroad	only	Am. auto
4/1/59 - 6/30/59			
11/14/59 - 1/4/60			
5/4/60 - 6/30/60			

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Ex 5A 4

04

NAME Spoonmore, Raymond BK. 2416
 ADDRESS 12 R # 61, Box # 115 TELE. Boston, Ind.
Muncie, Indiana FL 8-3736
 SS. 316-07-7803 Z 250840 LIC. T2-4-60

DATE OF ADMITTANCE		QUARTERS				YR.	STRIKE & F.F.	YR.	BLDG. FUND	MISC.
DATE	DUES STAMP	1	2	3	4					
7/21/60	D 3417	X				60		59	6824	10/1/61
12/31/60	D 3417		X			60	F3117	60		12/31/61
4/1/60	D 285			X		60				
"	D 286				X	60				
10/6/60	D 3230				X	60				
"	D 3231	X				61		60	1255	10/1/60
3/13/61	D 4773		X			61	F 5161			"
"	D 4774			X		61				
9/27/61	D 5771				X	61		61	B2183	7/27/61
1/3/62	D 6954	X				62	F4100	62		1/3/62
3/26/62	D 7938		X			62				
"	D 7939			X		62				
"	D 7940				X	62		62	B3540	3/26/62
12/17/62	D 1978	X				63	F6185	63		12/17/62
3/20/63	D 2050		X			63		62	B4455	"
"	D 2051			X		63				
"	D 2052				X	63		63	B4428	3/20/63
12/19/63	D 5558	X				64				
"	D 5559		X			64	F7151	64		12/19/63
"	D 5560			X		64		64	B6133	"
"	D 5561				X	64				
2/11/65	D 1914	X				65	F987	65		2/11/65
"	D 1915		X			65				
"	D 1916			X		65				
"	D 1917				X	65				
1/14/66	D 4696	X				66				
"	D 4697		X			66				
"	D 4698			X		66				
"	D 4699				X	66	F7552	66		1-3-66
1/14/67	D 7760	X				67	F1819	67		1/14/67
"	D 7761			X		67				
"	D 7762				X	67				
"	D 7763				X	67				

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NAME <i>Spoonmore, Raymond</i> BK. # <i>2416</i>					
SHIPPING RECORD					
NAME OF SHIP	COMPANY	DATE ON	PSN.	P.T.	DATE OFF
<i>Imoco 172</i>	<i>Amer Oil</i>	<i>2/28/59</i>	<i>only</i>	<i>P</i>	<i>5/9/63</i>
<i>11/14/59 - 1/4/60</i>					
<i>5/4/60 - 6/30/60</i>					
<i>11/7/60 - 1/3/61</i>					
<i>4/23/61 - 7/18/61</i>					
<i>12/4/61 - 12/24/61</i>					
<i>4/11/62 - 7/24/62</i>					
<i>11/14/62 - 1/19/63</i>					
<i>Gulftugler</i>	<i>GSA</i>	<i>7/5/63</i>	<i>only</i>	<i>T</i>	<i>8/28/63</i>
<i>Newbury Dykes</i>	<i>Dykes</i>	<i>8/30/63</i>	<i>only</i>	<i>T</i>	<i>11/29/63</i>
<i>Gulftugler</i>	<i>GSA</i>	<i>11/1/63</i>	<i>only</i>	<i>T</i>	<i>12/24/63</i>
<i>Evill's</i>	<i>Starline</i>	<i>1/31/64</i>	<i>only</i>	<i>P</i>	<i>4/26/64</i>
<i>Dewar</i>	<i>Oreco</i>	<i>6/5/64</i>	<i>only</i>	<i>P</i>	<i>7/26/65</i>
<i>Copier (US)</i>	<i>US Bulk</i>	<i>7/28/65</i>	<i>only</i>	<i>P</i>	<i>2/7/67</i>
<i>Wellesley</i>	<i>Wellesley</i>	<i>3/23/67</i>	<i>only</i>	<i>P</i>	<i>5/21/67</i>
<i>American</i>	<i>Robins</i>	<i>1/25/67</i>	<i>only</i>	<i>P</i>	

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DUPLICATE

to be Forwarded
Secretary-Treasurer

OFFICIAL ASSIGNMENT

AMERICAN RADIO ASSOCIATION, AFL-CIO

Port of NO Date 4/23/73 Time 0900
Name SPOONMORE, R. 317/397-3245 Book No. 2416
Assigned to stly From GREEN RIDGE
S.S. Company Gen. Gulf Rating REO
Perm. ☒ Temp. ☐ Master Beach List No. _____ Group: _____
Dues Paid through _____

Remarks SHIP LAID UP AT Mobile.

Signed-ARA Official

Signed-Radio Officer

DUPLICATE

to be Forwarded
Secretary-Treasurer

OFFICIAL ASSIGNMENT

AMERICAN RADIO ASSOCIATION, AFL-CIO

Port of N.Y. Date 12/25/72 Time 09:15
Name SPOONMORE Raymond R. Book No. 2416
Assigned to SS Green Ridge From Stdy
Company Central Gulf S.S. Corp Rating Only
Perm. ☒ Temp. ☐ Master Beach List No. _____ Group: One
Dues Paid through _____

Remarks Rejoining ship at M.O.T. Bayonne, N.J.
from vacation.

Signed-ARA Official

Mailed

Signed-Radio Officer

DUPLICATE

(To be Forwarded
to Secretary-Treasurer)

OFFICIAL ASSIGNMENT

AMERICAN RADIO ASSOCIATION, AFL-CIO

Port of N.Y. Date 5/1/71 Time 11:11
Name SPOONMORE Raymond R. Book No. 2416
Assigned to SS Green Ridge From Atl. "ct"
S.S. Company Central Gulf S/S Rating Only
Perm. ☒ Temp. ☐ Master Beach List No. 83 Group: One
Dues Paid through _____

Remarks Report to ship at M.O.T. Bayonne, N.J.
Rejoining A/O A. Peltzman. Clearance mailed to
ship.

Signed-ARA Official

Signed-Radio Officer

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OFFICIAL ASSIGNMENT
AMERICAN RADIO ASSOCIATION, AFL-CIO

Port of NO Date 7/24/73 Time 0900
Name SPOONMORE, R. 317/397-3245 REO Book No. 2416
Assigned to GULF/INACTIVE/NO From GREENRIDGE
S.S. Company Central Gulf Rating REO
Perm. ☒ Temp. ☐ Master Beach List No. Off Group: One
Dues Paid through 4/73

Remarks Mr. Ray Spoonmore
R.R. #1
Kingman, Indiana 47952
Phone
Signed—ARA Official Signed—Radio Officer

DUPLICATE
(To be Forwarded to Secretary-Treasurer)
OFFICIAL ASSIGNMENT
AMERICAN RADIO ASSOCIATION, AFL-CIO

Port of San Francisco Date 3/10/72 Time 7:16
Name Spoonmore, Ray Book No. 7416
Assigned to STANDBY From SS GREENRIDGE
S.S. Company Central Gulf Rating only
Perm. ☐ Temp. ☐ Master Beach List No. btm Group: 1
Dues Paid through 4th ctr 72

Remarks Vacation according to Rule 1/B (abt 135 days)

Signed—ARA Official Signed—Radio Officer

DUPLICATE
(To be Forwarded to Secretary-Treasurer)
OFFICIAL ASSIGNMENT
AMERICAN RADIO ASSOCIATION, AFL-CIO

Port of NO Date 5/1/73 Time 0800
Name SPOONMORE, R. Book No. 2416
Assigned to GREEN RIDGE From stby
S.S. Company Central Gulf Rating REO
Perm. ☒ Temp. ☐ Master Beach List No. stby Group: one
Dues Paid through 4/73 rejoining from layup

Remarks TO: Mr. R. Spoonmore REO SS GREEN RIDGE
c/o Central Gulf = Q Canal St.
New Orleans, La. 70130
Phone
Signed—ARA Official Signed—Radio Officer

EXSA 8



97
DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

MAILING ADDRESS:

Officer in Charge
Marine Inspection
Battery Park Building
New York, N.Y. 10004
(212)264-1341

SS GREEN RIDGE
30 September 1974

Mr. Archie Peltzman
8725 16th Avenue
Brooklyn, N.Y. 11214

SS GREEN RIDGE - voyage from Wilmington, N.C. 5 August 1970 to Wilmington,
N.C. 28 September 1970

No log entries were found pertaining to you in the Official Log-Book for the
above voyage. No rider attached to Shipping Articles pertaining to Union
Bargaining Agreements.

SS GREEN RIDGE - voyage from Wilmington, N.C. 29 September 1970 to Tampa,
Florida 23 December 1970

No log entries were found pertaining to you in the Official Log-Book for the
above voyage.

SS GREEN RIDGE - voyage from Wilmington, N.C. 5 January 1971 to Norfolk,
Virginia 26 May 1971

No log entries were found pertaining to you in the Official Log-Book for the
above voyage. No rider attached to Shipping Articles pertaining to Union
Bargaining Agreements.

G. FERRERO
SENIOR SHIPPING COMMISSIONER

C. G. 705 A

DEPARTMENT OF TRANSPORTATION UNITED STATES COAST GUARD SHIPPING ARTICLES

(R. S. 4612 as amended—U. S. C., title 46, sec. 713)

Notice is hereby given that section 4519 of the U. S. Revised Statutes (U. S. C., title 46, sec. 577) makes it obligatory on the part of the master of a merchant vessel of the United States, at the commencement of every voyage or engagement, to cause a legible copy of the agreement (forecastle card), omitting signatures, to be placed or posted up in such part of the vessel as to be accessible to the crew, under a penalty not exceeding ONE HUNDRED DOLLARS.

ARTICLES OF AGREEMENT BETWEEN MASTER AND SEAMEN IN THE MERCHANT SERVICE OF THE UNITED STATES

Required by act of Congress, title LIII, Revised Statutes of the United States (U. S. C., title 46, ch. 18)

NAME OF SHIP	OFFICIAL NO.	PORT OF REGISTRY	DATE OF REGISTER	REGISTERED TONNAGE		VOYAGE NO.
				Gross	Net	
SS GREEN RIDGE	247322	NEW ORLEANS, LA.	JULY 8, 1964	7,897	4,588	22
OPERATING COMPANY ON THIS VOYAGE			NUMBER OF SEAMEN AND APPRENTICES FOR WHICH ACCOMMODATION IS CERTIFIED		CLASS OF SHIP	
Name	Address (State number of house, street, and town)					
CENTRAL GULF STEAMSHIP CORPORATION	1TH BUILDING—NO. 2 CANAL STREET P.O. BOX 53366—NEW ORLEANS, LA. 70150		50		STEAM/FREIGHTER	

Office of the U. S. SHIPPING COMMISSIONER FOR THE PORT OF WILMINGTON, N.C. JANUARY 5, 19 71

IT IS AGREED between the Master and seamen, or mariners, of the AMERICAN SS GREEN RIDGE

OF NEW ORLEANS, LA.

of which HANS H. REISVAAG-LIC. NO. 291124

is at present Master, or whoever shall go for Master, now bound from the Port of WILMINGTON, N.C.

ON A TRAMP FREIGHTER VOYAGE/EITHER DIRECT OR VIA ONE OR MORE COASTWISE PORTS TO PORTS ON THE UNITED STATES GULF/ATLANTIC/PACIFIC OR

GREAT LAKES COAST AND/OR PORTS IN THE CARIBBEAN SEA AND/OR SOUTH AMERICA AND/OR EUROPEAN PORTS AND/OR AFRICAN PORTS AND/OR PORTS IN THE

EAST OR NEAR EAST AND/OR AUSTRALIA

and such other ports and places in any part of the world as the Master may direct, and back to a final port of discharge in the United States, for a term of time not exceeding

TWELVE (12) calendar months.³

And the said crew agree to conduct themselves in an orderly, faithful, honest, and sober manner, and to be at all times diligent in their respective duties, and to be obedient to the lawful commands of the said Master, or of any person who shall lawfully succeed him, and of their superior officers, in everything relating to the vessel, and the stores and cargo thereof, whether on board, in boats, or on shore; and in consideration of which service to be duly performed the said Master hereby agrees to pay to the said crew, as wages, the sums against their names respectively expressed, and to supply them with provisions according to the annexed scale. And it is hereby agreed, that any embezzlement or willful or negligent destruction of any part of the vessel's cargo or stores shall be made good to the owner out of the wages of the person guilty of the same. And if any person enters himself as qualified for a duty which he proves himself incompetent to perform, his wages shall be reduced in proportion to his incompetency. And it is also agreed that if any member of the crew considers himself to be aggrieved by any breach of the agreement or otherwise, he shall represent the same to the Master or officer in charge of the ship in a quiet and orderly manner, who shall thereupon take such steps as the case may require.

ONLY COPY AVAILABLE

MEMO TO BLS 1/15/71 99
FROM Floyd J. K. Hepting
AMERICAN RADIO ASSOCIATION, A.F.L.-C.I.O.

DEAR SMITTY:

I JUST RECEIVED THE LETTER TO
PELTZMAN THIS NOON.

CAPT. WHITCOMB OF CENTRAL GULF
IS OUT SICK TODAY AND I CANNOT
DISCUSS IT WITH HIM BEFORE
MONDAY.

NO ONE ELSE THERE KNOWS OF
THE LETTER OR WHAT TO DO ABOUT
IT IF THEY DID; SO IT LOOKS
LIKE WE'LL JUST HAVE TO WAIT
UNTIL WHITCOMB RETURNS AND
I CAN REACH HIM.

WILL KEEP YOU ADVISED.

73



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MEMO TO BLS 1/18/71
FROM Floyd J. K. Hepting
AMERICAN RADIO ASSOCIATION, A.F.L.-C.I.O.

DEAR SMITTY:

GREEN RIDGE LEFT SUNNY PCINT
0000 1/15 - BEFORE WE HAD
RECEIVED COPIES OF LETTERS TO
PELTZMAN&CENTRAL GULF - I
CONTACTED CAPT WHITCOMB OF
CENT GULF & THEY WILL CO-
OPERATE. SHE IS DUE BACK

STATESIDE 3/29/71



73

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G.C.B.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

100

-----x
ARCHIE FELTZMAN,

Plaintiff, : Index No. 73 Civ. 2911 WK

-against- :

REPLY AFFIDAVIT

CENTRAL GULF LINES, INC., :

Defendant. :
-----x

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

RICHARD P. LERNER, being duly sworn, deposes and
says:

1. I am associated with the firm of Lorenz, Finn,
Giardino & Lambos, attorneys for defendant, and am fully
familiar with all of the facts and circumstances herein.

2. This affidavit is made in reply to plaintiff's
supplemental affidavit of November 12, 1974 and incorporates
the Reply Affidavits (dated November 15, 1974) submitted here-
with, of Edwin Steinberg, Esq., attorney for the American
Radio Association, AFL-CIO (ARA) and Mr. Walter Prang, an
employee of the ARA.

3. Upon remand by the Court of Appeals defendant
moved for summary judgment on the ground that plaintiff had
failed to state a claim upon which relief can be granted, in
that:

Plaintiff was properly discharged pursuant to the
union security clause of the contract between
defendant and the American Radio Association,
AFL-CIO, since plaintiff was not a member of the

union at the time of his discharge by virtue of the fact that he had failed and refused to pay the initiation fee which was uniformly required by the union constitution and which was regularly demanded of those in plaintiff's position.

4. That there is no genuine issue of fact and that defendant is entitled to summary judgment as a matter of law is clear from the:

- A. Affidavit (and attached Exhibits) of Captain C. E. Whitcomb, defendant's Manager of Marine Personnel, dated September 4, 1974, submitted in support of defendant's motion for summary judgment;
- B. Affidavit (and attached Exhibits) of Bernard Smith, Secretary Treasurer of the ARA, dated September 6, 1974, submitted in support of defendant's motion for summary judgment;
- C. Testimony of numerous witnesses including, Mr. Smith and Captain Whitcomb, taken during the hearings held on October 15th and 18th, 1974, as well as the exhibits offered by plaintiff during the hearings;

and

- D. Supplemental Affidavit of Bernard Smith (and attached Exhibits) dated October 23, 1974, which affidavit was requested by the Court.

5. Plaintiff's supplemental affidavit does nothing more than raise questions of law, already decided against him by the Court of Appeals, and contains allegations which are not relevant herein and which are, in and of themselves, erroneous.

6. Firstly: The questions concerning the constitutionality and statutory legality of the union security provision of the contract and the ARA hiring hall practices and

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procedures have already been decided against plaintiff by the Court of Appeals. Clearly, that decision is res judicata.

7. Secondly: Neither the question of plaintiff's 1969 NLRB complaint - which he withdrew - concerning the ARA hiring hall practices, nor the question of his ARA group status (which also arose in 1969) has the slightest bit of relevancy herein. Plaintiff was not employed by defendant when those questions arose. Additionally, those questions concern his relationship with the ARA, not the defendant. Moreover, they have already been considered by the Court of Appeals and have been rejected.

8. Thirdly: There is not one iota of evidence in the record to support plaintiff's baseless claim that the ARA coerced defendant into not reemploying him. To the contrary, the record conclusively establishes that the defendant did not reemploy plaintiff because to have done so would have been a breach of the contract's union security provision.

9. Fourthly: Captain Whitcomb did inquire about the reason for the ARA's action and was informed that plaintiff had failed to pay the required initiation fee (Transcript of October 15, 1974 Hearing - last two pages of Captain Whitcomb's testimony supplied to the Court by plaintiff). In any event, his inquiry of the ARA is not relevant herein.

10. Lastly: Plaintiff has been supplied with all of the documents and information pertinent and relevant herein. In fact plaintiff has attached most of those items to his supplemental affidavit and/or entered them as exhibits at the

October hearings. Furthermore, on October 15, 1974, in open Court, plaintiff was offered the opportunity to go through defendant's files which had been brought from New Orleans, but chose not to do so.

11. Plaintiff's claim is totally devoid of substance. The uncontradicted record conclusively establishes that:

A. Plaintiff was not a member of the ARA because he failed and refused to pay the initiation uniformly required by the union constitution and regularly demanded of those in his position;

and

B. That he was discharged by defendant pursuant to the contract's union security clause.

Accordingly, plaintiff has failed to state a claim for breach of contract upon which relief can be granted.

WHEREFORE, it is respectfully requested that defendant's motion for summary judgment be granted.

SS/

Richard P. Lerner

Sworn to before me this
26th day of November, 1974.

SS/

Notary Public

DONATO CARUSO, Notary Public
State of New York No. 60-5636700
Qualified in Westchester County
Qualified in New York County

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ARCHIE PELTZMAN,

INDEX NO. 73 CIV 2911 WK

Plaintiff,

AFFIDAVIT

-against-

CENTRAL GULF LINES, INC.,

Defendant.
-----X

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

EDWIN A. STEINBERG, being duly sworn, deposes and
says:

1. I am the attorney for the AMERICAN RADIO
ASSOCIATION, AFL-CIO and am submitting this affidavit in reply
to plaintiff's supplemental affidavit sworn to on November 12,
1974.

2. I wish only to comment on plaintiff's
allegations as to his opportunity to review all of the relevant
documents which he has requested. At the close of the hearing
I requested that the plaintiff state in open court what
additional records and documents he wished to examine, and to
have the court establish a time and place for plaintiff to
accomplish this purpose.

3. In connection therewith the court was
advised that the request by plaintiff for disclosure of union

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records pertaining to radio officers who had returned during the Korean war could not be complied with due to the fact that this would constitute an onerous burden and that many records which had been maintained during this period of time no longer existed. In addition it was pointed out that this request had no relevancy inasmuch as individuals returning during the early 1950's would have done so prior to the institution of the hiring hall system which was in effect at the time plaintiff returned to the industry. The American Radio Association was therefore not required to comply with this request for disclosure except in the case of individual radio officers whose files plaintiff might seek to examine..

4. Plaintiff thereupon stated that he wished to examine the Homer, Spoonmore and Hajim files, and the court directed that this be done at the union offices on October 23, 1974. On that date plaintiff appeared, and from approximately 2 p.m. to 4:30 p.m. on that date each of the said files was made available to him and copies were made of each and every document which plaintiff requested. The only papers which could not be given to plaintiff at that time consisted of certain documents relating to the Hajim file which could not be xeroxed, due to the fact that they were in negative, i.e. white on black. The union advised plaintiff that they would have these papers photostated for his use if he would agree to

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pay the cost thereof. This was done and on October 25, 1974 I personally sent these additional documents to the plaintiff at his home address.

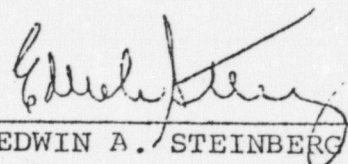
5. Plaintiff was thus given access to all of the documents which he thought relevant to his case, and copies were made available to him.

6. In addition the records of sixteen (16) individuals who had become members of the union during the period of the Viet Nam war were also made available. These records were made a part of Bernard L. Smith's supplemental affidavit filed with the court on October 23, 1974.

7. It might be pointed out that plaintiff had telephoned me subsequent to his receipt for the additional documents from the Hajim file and requested that he be given the opportunity to again examine this file inasmuch as he thought that I had withheld certain documents. I thereupon advised plaintiff that he had received all of the papers which he had requested, and that he would receive no further opportunity to reexamine any file. With respect to plaintiff's "Pleadings in Opposition" attached to his supplemental affidavit, I will comment on only two points, the first being that the Spoonmore matter can easily be differentiated from

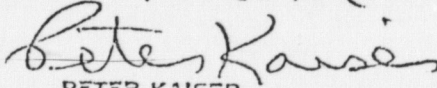
those cases to which the Smith affidavit sworn to on September 6, 1974 (Paragraph 8) refers, in that Spoonmore was reinstated on December 10, 1951 when a different constitutional provision was in effect and prior to the institution of the hiring hall system. Plaintiff's reference to the statement contained in paragraph 26 of the same Smith affidavit is also inaccurate in that the ten (10) men listed therein were individuals who lost their membership prior to the implementation of the hiring hall and returned subsequent thereto. Spoonmore was obviously not included in this list inasmuch as he had returned to the industry in 1951.

8. It does not appear that the plaintiff by his supplemental papers has introduced any new evidence which would support his contention that there is a triable issue of fact, and defendant's motion should therefore be granted in its entirety.


EDWIN A. STEINBERG

Sworn to before me this

15 day of November, 1974


PETER KAISER
Notary Public, State of New York
No. 41-2010450
Qualified in Queens County
Term Expires March 30, 1975

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SUP
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
:
ARCHIE PELTZMAN, :
:
Plaintiff, :
:
versus : 73 Civil 2911
:
CENTRAL GULF LINES, Inc., :
sued herein as "Central Gulf :
Steamship Company", :
:
Defendant. :
:
-----X

New York, N. Y.
May 30, 1974 - 9:45 a.m.

Before

HON. WHITMAN KNAPP,
District Judge
(in Chambers)

APPEARANCES:

ARCHIE PELTZMAN,
Plaintiff, Pro Se

LORENZ, FINN, GIARDINO & LAMBOS, Esqs.,
Attorneys for Defendant
RICHARD LERNER, Esq., of Counsel

DONALD A. STEINBERG, Esq.,
Attorney for American Radio Association, AFL-CIO

- - -

THE COURT: Now, on the record, the Court of Appeal having reversed and remanded for the purpose of deciding whether the plaintiff has a contract claim based on discrimination against him, and having made the following observation:

"If the initiation fee was uniformly required by the union constitution and by-laws and was regularly demanded of those in his position, then it is likely that the union security clause was properly invoked and that the contract claim must fail."

The defendant believes that it can meet the issue posed by the foregoing observation by motion for summary judgment.

Off the record --

(Discussion off the record.)

THE COURT: The motion will be served on June 21st. However, the plaintiff, appearing pro se, will not be required to meet the motion by affidavits, but the matter will be set down for an evidentiary hearing at which the plaintiff may either call witnesses or make a statement of his position and submit such documents as he wants.

Now, how long do you think you ought to have?

(Discussion off the record.)

THE COURT: The plaintiff will advise the Court and parties and the defendant when he feels prepared to proceed

with the hearing.

MR. PELTZMAN: For the record, I just want to quote from the constitution of the American Radio Association, as amended June 28, 1970, Section 4, on page 26:

"Any member whose license as a radio officer has been suspended or revoked by the United States Coast Guard or by any other Government agency, or who has been denied by the U. S. Coast Guard or by any other Government agency a license or document necessary for employment as a radio officer, or who has been denied permission by the United States Coast Guard or by any other Government agency to ship by reason of his being a poor national security risk, or who has been found guilty of a felony by a court of competent jurisdiction, may be suspended and/or expelled from membership after due investigation and approval by the National Council, subject to further approval by a majority of the members voting at a branch membership meeting held within fourteen (14) days after the receipt of the National Council's decision. The decision of the membership shall be final, provided, however, that an appeal may be taken to the next convention."

Now, your Honor, my license was taken away, and, according to this provision, there has to be a hearing, and

they had to make some sort of a decision whether or not my membership should be suspended.

THE COURT: Well, I can't decide that now. That is just generally.

MR. PELTZMAN: Your Honor, of course, I have here an Article IX on page 24 of the same constitution. It is --

THE COURT: Just mark the constitution, because you have got to pay for all this.

MR. PELTZMAN: I don't mind paying for it after the case has been finally decided, your Honor, because I have a little file to put in, maybe today or tomorrow.

THE COURT: Well, you can read it out of the book. So you will get your motion papers, and then you will let me know when you are ready to proceed.

MR. PELTZMAN: As I say, it may take me some time to get these documents from the C.G. or the union and Mr. Lerner, plus the Maritime Institute, because I am going to go down there and get some of their records, too, to find out why they didn't arbitrate this.

MR. LERNER: I think there is going to be quite a bit of time spent getting various documents, and I don't think it would be, under the circumstances, fair to rush the plaintiff.

THE COURT: No. Whenever he is ready, we will pro

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SLP

ceed.

Thank you.

MR. LERNER: Thank you, your Honor.

- - -

1 GW2

Benson-direct

2 MR. PELTZMAN: I want to bring out, your Honor,
3 that if this agreement, contrary to what the Court of Appeals
4 says, is a closed shop agreement, I think Mr. Benson, with
5 his experience of 29 years in the business, has a little
6 more knowledge of what the shipping business is than the
7 Court of Appeals.

8 THE COURT: If they wanted his opinion they would
9 have asked him. Next question.

10 Q Mr. Benson, when for the first time did you know
11 about this case, Peltzman against Central Gulf or Peltzman
12 against the American Radio Association?

13 A June of 1974.

14 Q June of what?

15 A 1974.

16 THE COURT: This year?

17 THE WITNESS: This year.

18 THE COURT: This June, he says.

19 THE WITNESS: This June.

20 Q Didn't I send you a letter some time in '69?

21 A 1969. I think it was November, 1969, that's
22 correct. It had no relationship to the Central Gulf case
23 at all.

24 Q Right. But it was in the same case, wasn't it?

25 A I don't follow you.

1 GW3

Benson-direct

2 Q I had this disagreement with the union about the
3 hiring hall, right, so the first time you heard about this
4 case is when I sent you a letter, wasn't it, in '69?

5 A You are referring to the Central Gulf case. I
6 am not referring to it. If you are going back to 1969 --

7 Q Excuse me. Go ahead and finish.

8 A It had no relationship with the Central Gulf case
9 at all.

10 THE COURT: You got a letter in '69. What did that
11 letter say?

12 THE WITNESS: That you had a dispute with the union.

13 Q About what?

14 A About your new work status.

15 THE COURT: What is your organization?

16 THE WITNESS: I am with the Maritime Service
17 Committee.

18 THE COURT: What is that?

19 THE WITNESS: A trade association representing
20 various U. S. flag ocean-going steamship companies.

21 Q And was the reason I sent you that letter because
22 I couldn't get any status in Group 1 and I appealed to your
23 organization to arbitrate the dispute?

24 MR. PELTZMAN: By the way, your Honor, Mr. Benson,
25 I am asking him on the stand here to show that the union

1 GW4

Benson-direct

2 discriminated against me because they didn't arbitrate the
3 dispute.

4 MR. LERNER: Objection, your Honor. It has no
5 relevancy here whatsoever.

6 THE COURT: I don't see it, but I will let him
7 answer the question.

8 Q Was that the reason I sent you the letter, because
9 I wanted your organization to arbitrate the dispute?

10 A You directed the letter, if my memory serves me,
11 to the secretary of the Appeals Board of the American Merchant
12 Marine Shipping Association, the AMMI.

13 Q And what happened when you got the letter? What
14 did you do about it?

15 A The letter was --

16 Q By the way, did you bring any documents down with
17 you?

18 A Yes.

19 Q Could you refer to those documents, because I am
20 trying to find it myself and I would like you to refer to
21 that letter.

22 MR. KAPLAN: Your Honor, if I may. We have
23 examined our files extensively and we have in court under
24 subpoena every document we have concerning Mr. Peltzman,
25 including some internal office memoranda which, again, we

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GW5 Benson-direct

question its relevance but to cooperate with the Court we will furnish them.

These are copies from our files. With the Court's permission and the consent of the parties, I would like to submit copies.

THE COURT: Why not mark these as Plaintiff's Exhibits 1 -- just describe them and mark them.

MR. LERNER: Might I be heard? I don't know what they are.

THE COURT: Neither do I. We will find out.

MR. PELTZMAN: I would like to take a look also.

THE COURT: Mark them for identification.

Plaintiff's Exhibit 1 is a letter from Mr. Peltzman --

Q By the way, that letter had some attached documents, didn't it?

A Yes.

Q Are the attached documents there?

A Yes.

THE COURT: -- to the secretary of the Appeals Board and two attached documents. That is Plaintiff's Exhibit 1 for identification.

(Plaintiff's Exhibit 1 marked for identification.)

THE COURT: Plaintiff's Exhibit 2 for identification

xxx

1 GW6 Benson-direct

2 is a memorandum of August 8, 1969. It seems to be a hand-
3 written interoffice memorandum relating to Mr. Peltzman.

xxx 4 (Plaintiff's Exhibit 2 marked for identification.)

5 THE COURT: Plaintiff's Exhibit 3 for identifica-
6 tion is a July 10th memorandum to the file relative to Mr.
7 Archie Peltzman.

xxx 8 (Plaintiff's Exhibit 3 marked for identification.)

9 MR. PELTZMAN: Your Honor, could I see that letter
10 and the other documents?

11 THE COURT: Yes. (Handing)

12 BY MR. PELTZMAN:

13 Q Mr. Benson, as a result of getting this letter,
14 what did you do about it?

15 A Well, we looked into this matter, and the issue
16 at that particular time was resolved and you were reinstated
17 into Group 1 by the union. That was within a short period
18 of time.

19 Q How short a period was it?

20 A Approximately a month and a half, two months.

21 Q Wasn't it more, like three months?

22 A I just told you.

23 Q I said wasn't it more like three months?

24 A I don't know. I thought one or two months.

25 Q Did you ever reply to this letter?

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GW7

Benson-direct

A To you personally?

THE COURT: Yes, to him personally.

Q Yes, to me.

A No, no correspondence.

Q Did I call you up about three weeks or so after I sent you this letter on the phone?

A You made a call, you did, and you said the issue had been resolved and you had your Group 1 status back and you were going back to sea.

Q This was three weeks after I sent you this letter?

A I don't know.

MR. LERNER: Your Honor, at this point I have had an opportunity to take a quick look at the documents. I don't see they have any relevancy here. The group status is not in question. During the period 1969, Mr. Peltzman was not employed by Central Gulf, he was employed by other companies. I believe his record shows it was not until August of 1970, in fact, August 6, 1970, that he first became employed by the defendant. This whole line of questioning is totally irrelevant to the proceeding.

MR. PELTZMAN: Your Honor, what I am trying to show here is according to the Court of Appeals if the union or the company discriminated against me, according to the collective agreement, if the collective agreement calls for

1 GW8 Benson-direct
2 arbitration and I didn't get it, then I call that discrimina-
3 tion.

4 Q Now, Mr. Benson --

5 MR. LERNER: Your Honor, if I may for the moment.
6 The Court of Appeals said at page 3266, if the initiation fee
7 uniformly required and was regularly demanded by those in
8 his position, then it is likely their contract claim must
9 prevail.

10 It is solely on that the summary judgment is before
11 the Court. We seem to be going far afield. There is no
12 question of discrimination as to application of Group 1-
13 Group 2 status. The sole question is the initiation fee.

14 THE COURT: The Court of Appeals said it is
15 likely, so it didn't preclude the finding of some other dis-
16 crimination.

17 Q Mr. Benson, isn't it true that about three weeks
18 after I sent you this letter I came over to your office
19 and I said to you: "Did you get my letter?" And what did
20 you say to me when I asked you that question?

21 A I don't recall that incident at all, your Honor.

22 Q Pardon me?

23 A I said I do not recall the incident at all.

24 Q Didn't you tell me that that letter was sent to
25 Washington by mistake?

A No, that I did not.

1 GW9 Benson-direct

2 Q You didn't say that?

3 A No, I did not.

4 Q And that was the reason why you didn't answer the
5 letter, you just got it back from Washington?

6 A No.

7 Q You don't remember that?

8 A No, sir.

9 Q Now, you say that after three weeks the issue was
10 resolved and I went from Group 2 status to Group 1?

11 A Excuse me, I didn't say three weeks. I said I
12 thought the issue was either resolved between a month or
13 two months at the very latest. I didn't mention about three
14 weeks.

15 THE COURT: Two months, he said, not three weeks.

16 MR. PELTZMAN: Actually, your Honor, I am looking
17 for -- I think I have got it here somewheres -- I am looking
18 for the assignment slips that the union gave me when the
19 issue was resolved.

20 THE COURT: What difference does it make whether
21 he recollects the length of time?

22 MR. PELTZMAN: I am trying to show, your Honor,
23 that as soon as I had this demand from the union for the
24 dues, for the initiation fee, and I said to them, "Look,
25 you are not getting the dues or the initiation fee from me

1 GW10 Benson-direct

2 because according to what I think is the law all you are
3 entitled to is a withdrawal fee, and even that," I said,
4 "if you don't take it until the time I appeal to the NLRB,
5 I will ask the Court" -- that would be the Court in the
6 NLRB case -- "to reinstate me."

7 So it took me three months and when I couldn't
8 get any headway with Mr. Benson or the union --

9 THE COURT: I don't quite see what Mr. Benson has
10 to do with all this.

11 MR. PELTZMAN: He was the arbitrator in the agree-
12 ment, your Honor. I want to give you the '71 agreement.

13 THE WITNESS: I am not an arbitrator.

14 MR. PELTZMAN: When there is a dispute about the
15 groups, the assignment -- I will look at my old copy -- I
16 got three new copies from the union. They were nice enough
17 to give it to me. So I will let you know --

18 THE COURT: What are you looking for?

19 MR. PELTZMAN: It is on page 39, the grievance
20 procedure, your Honor. That's not it. That has to do with
21 another grievance procedure. This has to do with the assign-
22 ment list, Group 1, Group 2. According to the union regu-
23 lations, after a union seaman ships out for a year, he is
24 entitled to move up the list to Group 1, and in Group 1 he
25 can ship out faster if there are any ships to go out.

GW4

Wenthen-direct

58

the union that Mr. Peltzman had written a letter and felt he had a grievance and I wanted to know what the facts were in his case.

It was not ten days after that that Mr. Peltzman called me, thanked me for my interest and happily announced that he had received employment and that there was in fact nothing for any committee to do, that he was gainfully employed, and that was the end of that.

The next thing we heard was '74, as I just outlined, when he had what we call a beef about an unjustifiable discharge. That has nothing to do with my office or my organization in any form, manner or shape.

Q Have you finished now?

A Yes.

Q When I went to your office in '69 and I said that the group assignment business was unfair to me and I wanted to arbitrate it, wasn't Grace Steamship Company the last employer that I had worked for?

A I don't know.

Q You don't know. Is Grace a member of your association?

A There is no Grace. Prudential Lines is a member.

Q At that time it was Grace?

A There was a Grace Lines at one time.

GW5

Wenthen-direct

59

1 GW5
2 Q Were they a member at that time in '69?

3 A Yes, they were.

4 Q So if I sent you a letter in '69 and I said,
5 "I just left the Grace Steamship Company and instead of
6 going to Group 1 like I was entitled to they put me in
7 Group 2 and they told me," which I said in the letter here,
8 "that they are not going to put me into Group 1 until I
9 paid the initiation fee," that would be a matter for your
10 committee because Grace was a member, wouldn't it be?

11 A I don't remember your letter of '69 saying any-
12 thing about Grace.

13 Q I was looking for the assignment slip.

14 A I believe the letter is a document in evidence.
15 You can read it if you wish. I don't personally recall
16 any reference to Grace.

17 Q Take a look at the assignment slip.

18 A The assignment slip or the letter?

19 THE COURT: Assignment slip.

20 Q Does it say Grace Steamship Company?

21 A It looks to me to be two assignment slips. One
22 says SS Company Grace Line, and the other says SS company
23 blank.

24 THE COURT: What company?

25 THE WITNESS: Blank, no name filled in. The first

- 1 GWG Wenthon-direct 60
- 2 one is Grace Line. It is an assignment slip from the union.
- 3 Q The SS Rutgers Victory was a Grace Line ship,
- 4 wasn't it?
- 5 A I don't know.
- 6 Q When I came for the second time into your office
- 7 you say some time in June and according to this memo which
- 8 I have just gotten, I asked Mr. Benson for whatever papers
- 9 he could give me or whatever documents that he had in
- 10 relation to my arbitration gripe against the union, didn't
- 11 I? After we came to your office and Mr. Benson said,
- 12 "All I can give you is what I sent you by mail," which
- 13 was my letter --
- 14 MR. LERNER: Your Honor, objection. We seem to
- 15 be off on another tangent. I did not raise the grievance
- 16 and arbitration procedure in the summary judgment motion.
- 17 The period of time which plaintiff is referring to back
- 18 in '69 is a period of time where I quoted from a decision
- 19 of the National Labor Relations Board involving the \$2,000
- 20 fee, the complaint it had been arbitrary, discriminatory.
- 21 THE COURT: The decision of the board was it
- 22 failed to act.
- 23 MR. LERNER: Failure to act, and the denial was
- 24 upheld by Washington.
- 25 Q Anyhow, Mr. Benson --

1271

1 GW7 Wenth-en-direct 61

2 A My name is Wenth-en.

3 Q Sorry. Mr. Wenth-en, when we got into your office,

4 you refused to give me this memo and whatever else you have,

5 you say you haven't got anything else, right?

6 A No.

7 Q Didn't you?

8 A No.

9 Q Did you have this memo then?

10 A Which memo?

11 Q This memo you just gave me today.

12 A No.

13 Q You didn't have this memo then?

14 A No.

15 Q You made it up?

16 THE COURT: What is that?

17 MR. PELTZMAN: According to Mr. Wenth-en --

18 THE COURT: This memo is dated July, so he couldn't

19 have had it.

20 MR. PELTZMAN: July 10, 1974. Yes, it says here

21 on June 23.

22 THE COURT: So obviously he didn't have it when

23 he saw you in June.

24 MR. PELTZMAN: But I asked him if he would give

25 me anything he had, the gist of conversations. I forgot to

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Wenthen-direct

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ask Mr. Benson what conversations he had with Mr. Smith.

Q Mr. Benson, the upshot of it was I said what before I left?

THE COURT: When is this, in June?

MR. PELTZMAN: The second time I spoke --

THE COURT: June?

MR. PELTZMAN: I will take Mr. Wenthen's date. Time flies by so fast.

THE COURT: What did he say to you in June?

THE WITNESS: He said he had a grievance and he wanted documents, data, information, whatever our office would have with respect to a dispute he felt he had with Central Gulf Steamship Company, and, as I believe I have testified to earlier and I would be happy to repeat, I told him that we could be of no assistance to him because as I understood his dispute it was over whether he was properly or improperly discharged from employment with Central Gulf Steamship Company, again not a member of my steamship association.

Those being the facts, I told Mr. Peltzman. I was, one, completely unaware of his discharge from Central Gulf, in fact I didn't even know he was employed at that time by Central Gulf, and there was nothing that my office, either Mr. Benson or I, could do for him, that we had no records,

1 GW3

Whitcomb-direct

2 THE WITNESS: May I be excused?

3 (Witness leaves stand.)

4 MR. KAPLAN: Your Honor, if I may interrupt again.

5 I also represent Paul Bardyn, and if the plaintiff is not
6 interested in his testimony, I would like to ask he be
7 excused as well.

8 MR. PELTZMAN: I will get to Mr. Bardyn as soon as
9 I get through with Captain Whitcomb. I forgot all about him.

10 MR. LERNER: Your Honor, we have here three files
11 of correspondence also incorporating many of the legal papers
12 which are already in the file. We can pull out, if Mr.
13 Peltzman will specify, exactly which documents he is looking
14 for. The captain can pull them out. He did ask for the
15 deck log for the 27th and 28th of May, 1971, which would be
16 the first two pages of this document. I don't know what
17 it is that he is looking for in those files.

18 Q I asked Mr. Lerner to give me a copy of the telegram
19 that I sent you after you sent me one saying the union has
20 sent a permanent replacement. I want that telegram.

21 MR. LERNER: That was mailed special delivery to
22 Mr. Peltzman on October 10, 1974.

23 MR. PELTZMAN: I didn't get that telegram. Can
24 you show me that? My records are a little jumbled up. I
25 am trying to keep track of them.

1 GW4

Whitcomb-direct

2 MR. LERNER: These two documents, your Honor, would
3 be the telegrams which were mailed on the 10th.

4 THE COURT: Do you object to copies of them?

5 MR. PELTZMAN: I would like to see the telegrams
6 I requested Mr. Lerner to bring.

7 THE COURT: Take a look at the original and give
8 them back to the witness and we will put in copies.

9 MR. PELTZMAN: Yes. You didn't send me the telegram,
10 Mr. Lerner, did you?

11 MR. LERNER: Yes. They were put in the mail on
12 the 10th of October.

13 MR. PELTZMAN: I didn't get this.

14 MR. LERNER: I am not responsible for the U. S.
15 mails.

16 THE COURT: Let's mark these exhibits.

17 The exhibit next in order for identification is
18 what looks like a teletype. What is the date of it?

19 THE WITNESS: Your Honor, in our communications,
20 telegrams come in by teletype as well as straight telex
21 messages.

22 THE COURT: Is this a telegram?

23 THE WITNESS: It's a telegram.

24 THE COURT: Dated what?

25 THE WITNESS: Telegram dated 10:18 A.M., Eastern

1 GW5 Whitcomb-direct

2 Daylight Time on 9/5/71.

3 THE COURT: That is the exhibit next in order.

xxx 4 (Plaintiff's Exhibit 4 marked for identification.)

5 THE COURT:: Be sure when we adjourn today you have
6 all copies of exhibits.

7 MR. LERNER: I would like to have some. I don't
8 have all of them.

9 MR. PELTZMAN: I haven't got those telegrams
10 either because I never got them from Mr. Lerner.

11 THE COURT: I want to be sure everything marked for
12 identification I have.

13 MR. LERNER: This was the response, your Honor.

14 THE COURT: The response to the foregoing is the
15 next in order.

xxx 16 (Plaintiff's Exhibit 5 marked for identification.)

17 Q So, Captain Whitcomb, looking at my telegram and
18 your response there, I did send you a wire after you sent me
19 a telegram: "Don't report after all. There was a bit of a
20 misunderstanding. ARA has sent a permanent replacement" and
21 I sent you a telegram saying that I am holding the company
22 and the union legally responsible, right?

23 A You certainly did.

24 MR. PELTZMAN: I finally got this telegram, your
25 Honor, and I should have had it before my first summary
judgment motion.

1 GWL Whitcomb-direct 70

2 THE COURT: I don't see what effect it would have

3 had, but you have got it now.

4 MR. PELTZMAN: Mr. Lerner says I didn't dispute

5 my discharge.

6 THE COURT: You are disputing it now. That is

7 quite obvious.

8 MR. PELTZMAN: I disputed it when it happened.

9 Q And you sent me a telegram: "Re your 9/5 wire

10 ARA working agreement very clear Stop We deny all liability

11 your case."

12 I don't blame you. I would deny it, too.

13 THE WITNESS: Your Honor, may I?

14 Mr. Peltzman sent a telegram addressed to me but

15 for the benefit of the corporation that I am employed by

16 putting us on notice that he was holding us and ARA respon-

17 sible, to which I replied that I denied all liability.

18 Q You were just going by the agreement, right?

19 A Right.

20 Q The agreement says you get your employees through

21 the hiring hall, right? It says so in your letter.

22 A That has been established over and over.

23 Q Right. But according to the agreement, when an

24 employee goes for a vacation, isn't he supposed to get a

25 leave of absence from the company, according to the agreement?

1 GW2

Whitcomb-direct

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2 A You had it.

3 Q Pardon?

4 A You received one by virtue of a personnel status
5 form that the master gave you that you were granted your
6 vacation.7 Q Right. He didn't give me the usual letter of
8 leave of absence that every -- you said there were 18 other
9 men that went on vacation that trip?

10 A About, yes.

11 Q They didn't get this letter that they had to clear
12 the union, did they?13 A Mr. Peltzman, I am at no time obligated to send
14 you or any other employee a telegram to return from vacation
15 or otherwise. I did that strictly as a gesture of good
16 will to all of you.

17 Q How does an employee who leaves --

18 THE COURT: What has this to do with whether the
19 union discriminated against you?20 MR. PELTZMAN: I am saying that the bargaining
21 agreement says that when an employee who has been on a trip
22 for nine months or three voyages, he is entitled to a
23 vacation no matter what. In other words --

24 THE COURT: You got your vacation.

25 MR. PELTZMAN: Yes.

1 GW3

Whitcomb-direct

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2 THE COURT: What has this to do with whether
3 the union fired you for non-payment of dues? Get down to
4 the point whether the union discriminated against you. What
5 does this man know about that?

6 MR. PELTZMAN: He is supposed to know what the
7 bargaining agreement calls for.

8 THE COURT: The issue is did you get discriminated
9 against for not paying an assessment -- not assessment.

10 MR. PELTZMAN: Initiation.

11 THE COURT: What has this man to do with that?

12 MR. PELTZMAN: Your Honor, the question isn't
13 whether I got fired for not paying the initiation fee. The
14 question is did they discharge me according to the National
15 Labor Relations Act --

16 THE COURT: The Court of Appeals says they did,
17 and unless you can show that the union discriminated against
18 you, you have no cause of action. What can this man add to
19 the issue whether the union discriminated against you?

20 MR. PELTZMAN: I am going to try and show the
21 Court that according to the bargaining agreements the company
22 was obligated to rehire me.

23 THE COURT: But the Court of Appeals said they were
24 not. Now get on to something that is an issue in this case,
25 namely, were you discriminated against by the union. I

1 GW4

Whitcomb-direct

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2 have been very patient with you but that is the only issue
3 I am trying, and get on to it.

4 MR. PELTZMAN: Your Honor, I saw that the union
5 and the company did.

6 THE COURT: Then prove it or at least bring me
7 some evidence from which I can find it.

8 MR. PELTZMAN: I am going to look at the agreement,
9 the vacation clause.

10 THE COURT: I don't give a darn about the vacation
11 clause. I want to know whether you were discriminated
12 against by the union in insisting that you pay the initiation
13 fee. Now get to that issue. Stop all this palaver.

14 MR. PELTZMAN: Yes, your Honor.

15 THE COURT: Get to that issue. Don't ask any
16 other question about anything else. I have been listening
17 all day to your talk. That is the only issue here. Now
18 get to it.

19 BY MR. PELTZMAN:

20 Q Mr. Whitcomb, how long have you been an employee
21 in the shipping industry?

22 A Well, I am a little tired right now, but it dates
23 back to 1927. May, to be exact.

24 Q That's a long time. Now, do you recall any dis-
25 charge by a union for an employee who has been with the

1 GW5 Whitcomb-direct 74
2 company for nine months and he goes away for vacation and
3 he doesn't come back because he doesn't pay the initiation
4 fee?
5 A No, frankly, this is my first brush with a situa-
6 tion of that type.
7 Q First case. Have you heard of any others that
8 you asked about in the trade?
9 A I have never had any previous problems.
10 Q Isn't it a little unusual for a union to ask a
11 member or a former member or a permanent card member to pay
12 the initiation fee and then when he doesn't pay to ask the
13 company to discharge him?
14 THE WITNESS: Your Honor, would you indulge me
15 just one moment to relate a personal experience that will
16 answer the question?
17 THE COURT: If it answers the question, yes.
18 A Somewhere about 1948 I dropped out of the Masters,
19 Mates and Pilots voluntarily to go on a joint venture that
20 had nothing to do with this case. Subsequently, some years
21 later, I decided to come back to the union and sail. I
22 paid an initiation fee as a new member because I was not
23 in good standing due to not having paid dues and assessments
24 for about four years.
25 THE COURT: So he has heard of one such case.

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1 GWG White omb-direct 75

2 MR. PELTZMAN: That was his own case.

3 THE WITNESS: That answers your question.

4 Q What year was this, do you remember?

5 A Somewhere in the neighborhood of 1946, '47.

6 Q Was it before the Taft-Hartley Act was amended?

7 MR. LERNER: Objection, your Honor.

8 Q You don't recall?

9 MR. LERNER: I don't think this witness --

10 MR. PELTZMAN: It makes a difference, your Honor.

11 THE COURT: He doesn't know when the Taft-Hartley

12 Act was amended.

13 MR. PELTZMAN: The NLR Act was amended in 1947

14 by Taft-Hartley.

15 THE COURT: Is this '47 or '48?

16 THE WITNESS: I don't remember exactly when it was.

17 MR. PELTZMAN: Your Honor, the point is if it was

18 before '47, then the union had a perfect right because closed

19 shop was legal then.

20 THE COURT: Please get it through your mind that

21 the union had a perfect right to do what it did in this case

22 unless it discriminated against you. You may disagree with

23 that but that is the law of this case. Now please get that

24 through your head.

25 MR. PELTZMAN: Your Honor, I am beginning to

1 GW7 Whitcomb-direct 76
2 understand that the Court of Appeals is of the opinion
3 that only this initiation fee is the relevant part of their
4 opinion, and as far as I can see --

5 THE COURT: That is all the Court of Appeals
6 referred to. If you can show discrimination in any other
7 way, I will listen to you.

8 MR. PELTZMAN: Yes. At the end of the Court of
9 Appeals decision --

10 Before I get to that, your Honor, I would just
11 like to get through with Captain Whitcomb.

12 Q You spoke to who first in time? Was it somebody
13 in New Orleans from the union?

14 A Yes.

15 Q And they told you that they had some difficulty
16 with me?

17 A Right. I talked with the local ARA man, Floyd
18 Heptey. He wanted to know what the ETO, estimated time of
19 arrival, of the vessel was, that they had a problem of a
20 radio operator. I wasn't interested in the problem. It
21 was a problem between the union and the member.

22 THE COURT: So you told him what time it was
23 going to get in?

24 THE WITNESS: Yes, sir.

25 Q And did you subsequently hear from somebody else

1 GW2

Smith-direct

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2 MR. PELTZMAN: And this letter I gave to my boss
3 and I said, "This is the letter you can give to the
4 officials in the Municipal Building and with this letter
5 they will have a legitimate reason for giving me a leave
6 of absence."

7 THE COURT: In other words, his recollection is
8 it is not a letter to Haddock --

9 THE WITNESS: The Coast Guard.

10 THE COURT: -- but to the city.

11 THE WITNESS: I gave him the letter at his
12 request. How he used it, sir, I don't know.

13 Q The letter's date leads me to believe this is
14 after I got my license back.

15 THE COURT: Go on.

16 Q Some time in the summer I went back to you --

17 THE COURT: Summer of what year?

18 MR. PELTZMAN: '67.

19 Q -- for the second time and I said to you, "I have
20 gotten an agreement from the Coast Guard attorney, the
21 district attorney, that I am almost sure to get my license,
22 all I have to do is fill out the form telling them I am
23 100 per cent pure American and I will be able to get my
24 license," and I said to you, if you recall it, Mr. Smith,
25 "There is a case in the Supreme Court coming up" --

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GW3

Smith-direct

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MR. PELTZMAN: That was the Schneider case, your Honor, Schneider against Smith.

Q And the Supreme Court --

A It is not the same Smith.

MR. PELTZMAN: This is the commandant of the Coast Guard.

Q And I said this Schneider is going to get his license back, he has a good attorney.

MR. PELTZMAN: It was a West Coast case, your Honor.

THE COURT: I see.

Q "Now, I don't want after 17 years to tell these"--

THE COURT: This is a conversation you are having --

MR. PELTZMAN: The second time with Mr. Smith.

Q I said, "I don't want to give these guys the information, I have held it back so long why give it to them now." I said to you, "I have a good lawyer and he wants a thousand dollars. I will give him five hundred and the union gives him five hundred and we won't have to answer the questions."

MR. PELTZMAN: They gave me this form to fill out.

Q What did you say to me then?

THE COURT: Do you remember that conversation?

1 GW6

Smith-direct

100

2 of that may be relevant is the wage insurance plan, which
3 provides for reimbursement by the welfare plan to a man
4 who is laid off because a company goes out of business. A
5 company goes bankrupt and that is completely different. In
6 other words, a seaman's wages are entitled to priority, and
7 what we do is we pay the man out of the welfare plan and
8 then apply to the bankruptcy court for reimbursement.

9 THE WITNESS: That is purely in a bankruptcy
10 case.

11 MR. STEINBERG: That is the only thing I can
12 think of.

13 Q You don't remember how many similar circumstances
14 where these fellows came to you for help, was it five, ten,
15 fifteen?

16 A Over the last 25 years? It could be 50, it could
17 be 100, it could be 75. I don't know.

18 I take it there must have been several
19 during the red scare, the Coast Guard came down with a
20 ruling that alleged communists, they took their licenses away
21 from them and did not allow them to sail. Many of the men
22 who were ruled off, as we call it, came to us for help
23 and we knew their background was such that they had been
24 wrongfully ruled off and we went to bat for many of them and
25 got them their papers back in '49, 50, '51. Some it took

2 And then, of course, I remember going back there
3 once -- maybe three times altogether trying to find out
4 from the union if men were being reinstated either through
5 the union's help or perhaps through a lessening of the
6 Coast Guard's strictures because of the Lester Parker
7 decision saying these men had to get hearings, they had to
8 get specifics and all.

9 By the way, I never did get specifics. My lawyer
10 sent them letters and they said, "It doesn't concern you.
11 you are a radio officer or you were going to be a radio
12 officer."

13 That is when they took my license away. These
14 people are unlicensed. Of course, the fact is that
15 whether the man is licensed or unlicensed, if he didn't
16 get a hearing he was wrongly -- his papers were wrongly taken
17 away.

18 Q Now, Mr. Smith --

19 THE COURT: You just said you don't remember
20 seeing him?

21 THE WITNESS: I don't recall seeing him.

22 MR. PELTMAN: My recollection is different.

23 Mr. Smith has got quite a lot of people that come in and
24 see him. I understand that.

25 Q Mr. Smith, I see you have this letter in front

1 of you. Take a look at the bottom of the letter --

2 THE COURT: What are you referring to?

3 MR. PELTZMAN: I am referring to the January 13th
4 letter.

5 THE WITNESS: That is not the January 13th letter.
6 That is another one that has no relevancy.

7 MR. PELTZMAN: This is the letter demanding the
8 \$2,000 or else.

9 THE COURT: Have we got that in evidence?

10 Let's mark it an exhibit today.

11 (Plaintiff's Exhibit 9 was marked for
12 identification.)

13 MR. LERNER: Exhibit A to the affidavit of Mr.
14 Smith.

15 I want to clarify one point. When Mr. Peltzman
16 referred to a hearing in Lester Parker, that refers to a
17 hearing before the Coast Guard, not the union.

18 THE COURT: I understand that.

19 Q Mr. Smith, take a look at the bottom of the letter --

20 THE COURT: What exhibit do you say this is?

21 THE CLERK: Exhibit 9.

22 Q See where it says on the bottom of the letter
23 via registered mail, return receipt requested?

24 A Yes.

2 Q And you see it is addressed to my house, I think
3 it's my old address there at Workman Avenue?

4 A Yes.

5 Q Then you have a copy to Central Gulf in New Orleans?

6 A Yes.

7 Q And you had a copy to Wilmington?

8 A Yes.

9 Q You addressed that letter to them, didn't you?

10 A I addressed that letter to whom?

11 Q Central Gulf and to Wilmington, didn't you?

12 A I addressed it to you in care of the Wilmington
13 Shipping Company at Greenridge and in care of Central Gulf
14 Steamship Company. The letter was addressed to you.

15 Q You mean you sent me three copies?

16 A I sent a copy to your home, a copy to you in care
17 of the steamship company in New Orleans and a copy to you
18 aboard the vessel in care of Wilmington Shipping Company,
19 Wilmington, North Carolina, where I understood your vessel
20 was supposed to load.

21 Q Did you send a copy to the company?

22 A You mean --

23 Q A copy of the letter saying, "This is the letter
24 we are sending Peltzman," did you ever do that?

25 A I am sure we did.

1 THE COURT: It indicates here Central Gulf
2
3 Steamship Company.

4 MR. PELTZMAN: Mr. Smith said he sent the letters
5 to me.

6 THE WITNESS: I said I sent letters to you at
7 your home, a copy to Central Gulf and to Wilmington, and
8 copies were sent to Central Gulf.

9 Q Are those copies indicated on the bottom?

10 A I haven't the slightest idea.

11 Q You don't remember if you got any return receipts
12 back, do you?

13 A I am sure we did.

14 MR. LERNER: Your Honor, I am sorry to object
15 again, but I don't know what difference it makes to whom
16 it was sent, when it was sent. The fact of the matter
17 remains a letter was hand delivered to him and the discharge
18 did not take place until three months later.

19 MR. PELTZMAN: The whole thing is this, your
20 Honor: they never sent this letter to Captain Whitcomb,
21 as far as I am concerned, because Mr. Smith says now he
22 sent a copy to Central Gulf, to Wilmington --

23 THE COURT: What difference does that make?

24 MR. PELTZMAN: Because the National Labor Relations
25 Act says --

1 THE COURT: If you establish that you were
2 wrongfully discharged by the union, then Central Gulf's
3 failure to find out what they could have done about it would
4 be relevant, but unless you establish that the union
5 discriminated against you, there is no point worrying
6 about why Central Gulf didn't find out.

7 MR. PELTZMAN: The law requires Central Gulf
8 as an interested party, they are my employers --

9 THE COURT: If inquiry would have discovered
10 that you had been unjustly dealt with by the union, then I
11 think you have a grievance against Central Gulf. If it
12 wouldn't disclose the union had taken erroneous action,
13 it's immaterial whether they made inquiry or not.

14 Q Mr. Smith, you remember that when I returned to
15 the union and got my license, I got my leave of absence and
16 I said to you, "ROU, the Radio Officers Union, called me
17 up and they sent me a letter and they wanted to know if I
18 would ship out right away because there is a ship out in
19 the bay waiting for me."

20 I didn't have my license yet. And I said to the
21 ROU man -- Mr. Cook his name was -- I said, "I can't ship
22 out with you. I am going back to my old union. I have
23 spoken to Mr. Smith. I am going back there."

24 He said, "I am sorry. I am not supposed to talk
25

1 to you."

2
3 THE COURT: ROU is a rival union?

4 THE WITNESS: Yes. There are two unions in the
5 industry, we and the ROU.

6 Q So when I got my license I went over to you and
7 I said I am ready to ship out, and what did you do when I
8 went into your office?

9 A I haven't the slightest idea. What did I do.

10 Q What do you do when you get a man coming back
11 after 17 years and he says he is coming back and you gave
12 him a letter saying to whom it may concern he is needed in
13 the industry? Don't you remember what you did when I came
14 back?

15 A I just said I did not remember.

16 Q Let me see if I can recall -- make you recall
17 what you did.

18 We went into your office and you said, "Archie,
19 here is a card. I want you to sign your name and give me
20 the information."

21 Do you recall that, you gave me a card?

22 A No, I don't recall it, but it's a standard procedure.

23 Q That's what you usually do, right?

24 A Yes.

25 Q On that card it says on the top initiation fee.

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- 1 GN14 Smith-direct 103
- 2 This is the first day I went back. Do you remember that card?
- 3 Does it say initiation fee?
- 4 A I don't know what card you are referring to.
- 5 Q The card that you asked me to fill out, sign my
- 6 name to, the permit card, I suppose, or the card for
- 7 application to rejoin the union. It's a standard card just
- 8 like the card --
- 9 MR. PELTZMAN: Your Honor, I think I have a copy
- 10 here. It's --
- 11 A An application for membership?
- 12 Q I think that's what it could have been. It's the
- 13 same kind of card that has the dues stamps on it. You know,
- 14 a regular filing card. Here it is. It's about the size
- 15 of this dues card.
- 16 A Yes. This is a permit card. Right.
- 17 Q But the permit card didn't have on the top
- 18 initiation fee, did it?
- 19 A No.
- 20 Q What card says on the top of it initiation fee?
- 21 A I don't know that we have any. Do we?
- 22 Q You saw it because I mentioned it to you.
- 23 A Do you have one?
- 24 Q No, I haven't.
- 25 A I haven't either. So I would like to have you show

1 CW15 Smith-direct 109

2 me what you are talking about.

3 MR. PELTZMAN: This is just the dues card, your
4 Honor.

5 THE WITNESS: That is a card we give the guys.
6 We give them stamps when they pay dues and they paste those
7 stamps on these little cards so they will have a record of
8 their dues payments when they go to register, etc. Then
9 when they become a full book member, we give them a regular
10 membership book. That's what he is referring to there.

11 THE COURT: Let's call this Exhibit 10.

xxx 12 (Plaintiff's Exhibit 10 was marked for
13 identification.)

14 Q You remember this book, don't you?

15 A No, we no longer use books like this.

16 Q Was that my old membership book?

17 A You know better than I. It's yours.

18 Q What does it say?

19 A It says national book number 5049, I think.

20 "This is to certify Archie Peltzman is a member of District
21 Local 102." Signed Archie Peltzman and Murray Winter. It
22 says local membership book number. That's correct, date
23 member first initiated.

24 Q Do you give a new member or a guy that returns
25 one of these books?

136J

1 GW16 Smith-direct 110

2 A No, we don't. Those books have been superseded
3 for about 25 or 30 years.

4 Q Then it is my mistake.

5 A We had a book somewhat similar to this.

6 Q Do you remember the conversation when I said to
7 you when I saw this initiation card, "Mr. Smith, I don't
8 think I should pay an initiation fee"?

9 A I do not believe that you and I ever discussed
10 the initiation fee at that time, and I do not recall any
11 such conversation, if it will help you along.

12 Q You don't have to help me along.

13 Q I would be glad to if it will expedite it.

14 Q I have been doing pretty good for three and a
15 half years, unemployed, getting along. So you don't recall
16 that initiation fee on the top of that card I filled out?

17 A No, I do not.

18 Q And you don't recall me saying I don't think I
19 should pay the initiation fee?

20 A No, I do not.

21 Q Do you recall saying to me, "Archie, this is our
22 standard procedure. You have to sail as a permit card member
23 for one year and at the end of the year we will talk about
24 it"? Do you remember that?

25 A I very well might have told you it was standard

EBd8

Smith-direct

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from Group 2 to Group 1. The applicant must come in and give us a short note to the effect that "I have got my year in in Group 2. I want to be moved to Group 1 for shipping."

And I have a notification from Mr. Peltzman. I dropped him a note and I'm sorry that it's undated as is his letter, but I said, "Please come into my office at your earliest convenience to discuss the matter raised by your letter of recent date."

Now, I don't know what letter that refers to, but I had a note from him addressed to Mr. Bernard Smith.

"I am requesting that I be put on the Group 1 list from Group 2 in this letter as per your request."
Sincerely, Arthur Peltzman.

I can only deduce from that that Archie came into my office and I told him that I needed a short note requesting that he be moved to Group 1 from Group 2, and that he gave me the note because on August 15th, 1969, Mr. Peltzman was moved from New York Inactive Group 2 to New York Active Group 2.

And on August 18th, 1969, he was moved to New York Active Group 1 from New York Active Group 2, and on the same day he was shipped to a temporary job on the S. S. Overseas Ulla from the New York Active Group 1, and the vessel was operated by the Maritime Overseas Corporation, and the

clearance so indicates.

BY THE COURT:

Q Why was all this done if he was not paying his dues?

A He was paying his dues, sir.

Q Why weren't you insisting on his initiation fees?

A He and I, shall I say, were in discussion about his initiation fee at that time.

As Mr. Peltzman will verify, we had asked him for the money.

Now, the fact that we had asked him for the initiation fee has nothing to do with his rights to ship.

Q What gives him his right to ship?

A The law. Practices in the industry. We may not prevent him from shipping simply because he is not a union member, but in our collective bargaining agreement, in this case, with Central Gulf Steamship Corporation, we had the right, under our maintenance of membership provision, to, after Mr. Peltzman had sailed, I believe in 30 days, we had the right to request that he become a member of the union and pay his initiation fee.

Mr. Peltzman had refused to pay his initiation fee, but we may not, under the law, stop him from shipping, and we did not.

EBd10

Smith-direct

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1 The moment he registered in Group 1, a job went
2
3 through the list that no one else wanted, it went to the
4 bottom of the list, and Mr. Peltzman shipped out on the Ulla,
5 and then I fully intended, after he had been on that ship
6 for the 30 day period, when the ship came back, and this was
7 during the Viet Nam war, and ships were going out on long
8 trips, but I don't know how long he was on the Overseas Ulla,
9 and it indicates on the next clearance I have, and these are
10 clearances that are given to any man who registers or has
11 anything to do with his employment, and this is the union
12 copy.

13 During the Viet Nam war ships were going out for
14 indeterminate periods. We have had ships go out for a year
15 and a half, go out to Viet Nam and shuttle, Viet Nam to the
16 Philippines, where there was a big base, where they had space,
17 and warehouses to put war materiel coming from the United
18 States, various ports in the United States. They were put in
19 various warehouses in Manila, for instance, or in other ports
20 in the South Pacific -- Japan.

21 We have had tankers shuttling between Viet Nam
22 and Japan, or Viet Name to the Persian Gulf, etcetera, and
23 they were out there for many, many months, so I fully intended
24 sooner or later Mr. Peltzman would come back and he took
25 this as a temporary job. Apparently the original operator

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1 EBD11 Smith-direct 135
2 was going to return when the ship came back and probably did
3 so because I see after four months employment on that vessel
4 Mr. Peltzman got off voluntarily, apparently.
5 And again we asked him for the initiation fee
6 but we had no leverage at that time to get him off.
7 Now, if I may follow up on this to its ultimate
8 conclusion, to the Central Gulf vessel, he took -- apparently
9 he took -- when he come back in December 1969, he registered,
10 New York Inactive from the S. S. Overseas Ulla, and it is
11 signed by him, which indicated that he did not want to be
12 called for jobs even though we registered him in the New York
13 Inactive Group 1, there were plenty of jobs at that time,
14 during the war we couldn't get men and there was such a
15 demand for transportation that old ships, World War II liberty
16 ships, World War II victories were brought out of the laid-up
17 fleets and used to transport war materiel to Viet Nam.
18 He went on the inactive list December 16, 1969,
19 and he reactivated himself on January 15th.
20 He took a short vacation of about a month, and
21 on January 15, 1970, he re-registered, New York Active Group
22 I from New York Inactive Group I, and on March 10 he shipped
23 out on another temporary job, the S. Robin Goodfellow
24 operated by Moore McCormick, and it says on here, "relieved
25 for Radio Officer Barry Galloni one trip." That was on

1 EBD12

Smith-direct

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2 March 10, 1970.

3 And on June 30, 1970 he came back and registered
4 New York Active Group 1.

5 Now, in order to register he had to pay up his
6 dues and the fighting fund, etcetera. That was a hiring hall
7 fee or dues, as we call them, and he did so, but he still
8 refused to pay the initiation fee.

9 When he registered on the active list, a job
10 came on the board, a permanent job, and it went down the
11 list to Mr. Peltzman, the S. S. Green Ridge. He was on
12 Master Beach List Number 161, which indicates that in the
13 United States we have a master list for the entire country.
14 There were 160 men ahead of him, either active or inactive.
15 They all turned the job down. The ones on the East Coast
16 at least turned the job down and Mr. Peltzman took that job
17 on August 6, 1970, and it was a permanent job.

18 Therefore, when he came back eventually to the
19 United States to a port where we had an office, where we
20 could handle it, Mr. Peltzman at that time had to pay his
21 initiation fee or get off the vessel in accordance with our
22 collective bargaining agreement between us and the Central
23 Gulf Steamship Company.

24 Q I see. He could have gotten off that vessel
25 but you would have had to put him on another vessel as a

2 temporary?

3 A He could have gotten off that vessel and got
4 right in and registered Active Group 1 and we would have had
5 to keep shipping him.

6 Every time he got on a vessel, we could eventually
7 pull him off again but he could go ahead and register ad
8 infinitum.

9 Q He could have taken temporary jobs forever?

10 A Yes. He had to pay his hiring hall fee. He
11 would have been accumulating pension benefits, and he would
12 have had medical welfare and all the other benefits, vacation
13 from the union, but he would not have had to pay the initiation
14 fee until he got himself a permanent job and we made him get
15 off and give up the job, as we did, in enforcing our collective
16 bargaining agreement with Central Gulf.

17 THE COURT: I see. Okay.

18 BY MR. PELTZMAN:

19 Q Mr. Smith, I am glad that you went through all
20 of these clearances and all, and that you told the Judge
21 exactly how the hiring hall operates because it has refreshed
22 my memory as to what actually happened.

23 Now, you made some remarks about the inactive
24 list which you said to his Honor means that the member or
25 permit card member doesn't want to ship. Isn't that what

1 EBD14 Smith-direct 138
 2 that inactive slip means? In other words, we don't want to
 3 bother, that is, when I registered inactive, I came back from
 4 a trip, as you say, in April 1969. I was still in Group 2.
 5 I had made a trip. I didn't want to get shipped out the next
 6 day, so I said to the fellow who handles the assignment, a
 7 very nice gentleman, by the way -- his name is Patrick
 8 O'Malley. I think he is a retired New York City policeman,
 9 the gentleman, your Honor, and I have had no difficulties at
 10 all with Mr. O'Malley. He is in charge of that hiring list.
 11 And you understand, and so does Mr. Smith, that there can't
 12 be any finagling with the list, and Mr. O'Malley can be
 13 trusted by everybody, and so when I said to Mr. O'Malley --
 14 what is his first name?

15 A Pat.

16 Q I said --

17 THE COURT: He must be French, I guess.

18 MR. PELTZMAN: Yes, your Honor. He is an Irish
 19 gentleman.

20 I said to Mr. O'Malley, I said, "Here is my
 21 permit card, dues and fees."

22 You have to show it to the assignment man,
 23 Mr. O'Malley, that you paid up before you go on any list,
 24 that your dues, as they call it, service fees, if they
 25 aren't paid up you don't get on the list. I don't think

1 EBdl5 Smith-direct 139'
2 there is anything wrong with that. If you have a system, you
3 have to go along with the system, otherwise you are out.
4 THE COURT: See what happens to me when I don't?
5 I get reversed.
6 MR. PELTZMAN: Your Honor, that has happened,
7 and it will happen, but that doesn't mean that the Court of
8 Appeals reversed on the right issue. As your Honor knows --
9 THE COURT: We agree on that.
10 MR. PELTZMAN: -- I could complain about the
11 Court of Appeals and I will.
12 THE COURT: All right, let's go ahead.
13 BY MR. PELTZMAN:
14 Q Let's get on with this list and then to
15 Mr. Benson.
16 So actually when the man says to Mr. O'Malley,
17 "put me on inactive," that doesn't mean that he doesn't want
18 to ship. It just means that he doesn't want to ship right
19 away, so he doesn't want to be bothered with phone calls.
20 That's how we ship. We don't hang around the hall like they
21 do in the NMU. They call up. We have men out in the country.
22 A lot of them have moved out of New York into New Jersey
23 because of the income tax, and the right to work laws, and
24 all. So while a man is on inactive, Mr. Smith, doesn't he
25 move up the list anyhow?

